

EXHIBIT

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6000 LIVE OAK PARKWAY, STE 100, NORCROSS, GA 888-486-4044

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 19 MR. POOR: This is a discovery deposition
 20 taken in the case of James L. Rayl vs. Metropolitan
 21 Life Insurance Company, currently pending in the
 22 United States District Court for the Northern
 23 District of Oklahoma, taken pursuant to the Federal
 24 Rules of Civil Procedure, notice and agreement of
 25 the parties as to time and place.

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1 JAMES L. RAYL,
 2 being produced, sworn and examined on behalf of the
 3 defendant, deposeth and saith as follows:

4 DIRECT EXAMINATION

5 BY MR. POOR:

6 Q. Good morning, Mr. Rayl.

7 A. Good morning.

8 Q. Okay. Would you please state your name,
 9 sir, spell your last name for the record.

10 A. James Lee Rayl, R-a-y-l.

11 Q. And you are the plaintiff in this case,
 12 correct, Mr. Rayl?

13 A. Yes.

14 Q. Have you ever been deposed before, sir?

15 A. No.

16 Q. Have you ever testified in any type of
 17 formal court or administrative proceeding?

18 A. No.

19 Q. Take just a moment, let me just take a
 20 moment, Mr. Rayl, and describe to you the ground

21 rules that I have –

22 A. Okay.

23 Q. -- for a deposition. I am sure you have
 24 been briefed on what to expect. But a deposition
 25 is my opportunity to ask you questions about your

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 1 background, continue with MetLife, the facts and
 2 allegations that you have surrounding the Complaint
 3 that you filed against MetLife.

4 A. (Affirmative head nod).

5 Q. It is not my intention to be confusing or
 6 tricky or misleading or in any way to attempt to
 7 deceive you, but if for any reason you don't
 8 understand any question I ask, don't hear it, or
 9 are confused by it or for any reason want me to
 10 repeat the question, rephrase it, if you will tell
 11 me, I will be happy to do so.

12 A. Good.

13 Q. Okay?

14 A. (Affirmative head nod).

15 Q. If you answer the question, I am going to
 16 work on the assumption that you have heard it and
 17 understood it and are answering the question that
 18 is being asked. Fair enough?

19 A. Fair.

20 Q. From time to time witnesses will tend to
 21 give nonverbal answers, shakes of heads or
 22 perhaps –

23 A. Yes.

24 Q. – an "uh-huh," I will correct you. It is
 25 not meant to be in any way offensive to you, but

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1 simply the court reporter needs --
 2 A. I understand.
 3 Q. -- to have a verbal answer.
 4 And the way this process works, Mr. Ray,
 5 it is also useful if you allow me to finish my
 6 question and then you give the answer. It is very
 7 difficult for the court reporter to report two
 8 people talking at the same time.
 9 A. Okay.
 10 Q. Okay? It's an informal process, if you
 11 need a break, want to confer with your attorney,
 12 you should feel free to do so. I will ask if there
 13 is a pending question to answer the question before
 14 we take a break, but --
 15 A. Okay.
 16 Q. -- at any time.
 17 A. (Affirmative head nod).
 18 Q. Okay?
 19 A. Sure.
 20 Q. Are you on any medication today, sir?
 21 A. Yes.
 22 Q. What medication is that?
 23 A. I take Zestril 5 milligrams once a day,
 24 Mevacor 40 milligrams once a day and Lopressor 50
 25 milligrams twice a day.

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1 Q. What is Zestril prescribed for?
 2 A. It has to do with my heart condition, but
 3 I can't really tell you exactly. I was on a number
 4 of drugs before my last surgery and they have
 5 reduced the regimen to this, and they are different
 6 drugs.
 7 Q. All designed for your heart condition?
 8 A. The Mevacor is for cholesterol; the other
 9 two are for my heart.
 10 Q. Do these drugs, at least, to your
 11 knowledge, in any way interfere with your ability
 12 to hear and understand a question and --
 13 A. No, they do not.
 14 Q. Do they in any way interfere with your
 15 recollection or your ability to answer questions?
 16 A. No, they do not.
 17 Q. Other than conferences with your attorney,
 18 have you spoken with or done anything to prepare
 19 for the deposition today?
 20 A. No.
 21 Q. And I am excluding any conversations or
 22 things you have seen with him today.
 23 A. No, I have not.
 24 Q. Other than documents you may have reviewed
 25 with your counsel or shown to you by counsel, have

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1 you looked at any documents to prepare for today?
 2 A. The documents that we forwarded as part of
 3 the document production, I did review.
 4 Q. Okay. What is your address, sir?
 5 A. 1824 South Gardenia Avenue, and that's
 6 G-a-r-d-e-n-i-a, Broken Arrow, Oklahoma 74012.
 7 Q. Is that a private home or --
 8 A. Yes.
 9 Q. -- an apartment?
 10 A. A private home.
 11 Q. Did you own or rent the home?
 12 A. I own.

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13 Q. How long have you resided at that address?
 14 A. Approximately eight-and-a-half years.
 15 Q. Your social security number is
 16 284-36-7507?
 17 A. Yes.
 18 Q. Are you currently married, sir?
 19 A. No.
 20 Q. You were married at one time to Bonnie
 21 Beatrice Ray?
 22 A. Yes.
 23 Q. Married in 1964?
 24 A. Yes.
 25 Q. Okay. You are divorced, correct?

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1 A. Yes.
 2 Q. And when was that divorce final?
 3 A. I believe it was 1988.
 4 Q. The process, I assume, had gone on for
 5 some time?
 6 A. The best part of a year.
 7 Q. Okay. You have two children?
 8 A. Yes.
 9 Q. Okay. James Brian, who is with you today
 10 as your attorney?
 11 A. Yes.
 12 Q. He's your son, obviously. And Cynthia
 13 Renee is your daughter?
 14 A. Yes.
 15 Q. Okay. What are the ages of your children?
 16 A. 29 and 27.
 17 Q. Which is which?
 18 A. Brian 29 and Cindy is 27.
 19 Q. Do either of your children reside with you
 20 or rely upon you for support?
 21 A. No.
 22 Q. And your date of birth?
 23 A. May 13th, 1942.
 24 Q. If you could, please, sir, could you
 25 briefly describe your educational background.

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1 A. I finished high school in 1960, attended
 2 the College of Steubenville, which was my home
 3 town, attending night school. I did not get a
 4 formal degree from college. I have attended
 5 various classes, seminars and opportunities that
 6 have presented themselves over the years, but I do
 7 not have a degree.
 8 Q. "Steubenville" would be what?
 9 A. Ohio.
 10 Q. Ohio?
 11 A. Yes.
 12 Q. You attended courses at the College of
 13 Steubenville from --
 14 A. Graduating from high school into
 15 Steubenville.
 16 Q. Okay. Until when?
 17 A. 1961, January.
 18 Q. Okay. Since then, and I think you
 19 answered this, and I am sorry I didn't catch it,
 20 have you taken any other formal courses designed to
 21 lead to a degree conferred by a college or
 22 university?
 23 A. No.
 24 Q. You have taken some training in education
 25 courses?

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1 A. Continuing education, specialized
 2 management courses, things like that.
 3 Q. Some of them have even been offered
 4 through MetLife or reimbursed by MetLife?
 5 A. Yes.
 6 Q. You first went to work for MetLife in
 7 1962?
 8 A. Yes, April 9th.
 9 Q. Prior to going to work for MetLife, what
 10 kind of employment history did you have?
 11 A. When I graduated from high school, I
 12 worked at a department store just as a retail clerk
 13 in Ohio. I left there to move to Washington, D.C.,
 14 where I lived with my brother. And I was employed
 15 by Columbia Federal Savings & Loan as a teller
 16 prior to joining MetLife.
 17 Q. What job did you first hold with MetLife?
 18 A. I was what was classified as a field
 19 auditor.
 20 Q. You stayed in the field of auditing area
 21 for a number of years, correct?
 22 A. About ten years, yes.
 23 Q. Ten. Until the early Seventies?
 24 A. Until I came to Tulsa in January of 1973.
 25 Q. During the period you were in field

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1 auditing, where were you located?
 2 A. I was originally working out of
 3 Washington, D.C., probably for four or five years;
 4 I don't remember exactly. Then I was relocated to
 5 Cleveland, Ohio, and I worked out of Cleveland. I
 6 traveled a lot and – prior to coming to Tulsa.
 7 Q. What did you do generally in the field of
 8 auditing area?
 9 A. The job started out as auditing individual
 10 sales representatives of the company. I ultimately
 11 moved on to what was called a regional or a
 12 supervisor at that time, where I supervised the
 13 full auditing of our sales offices.
 14 Q. What did that auditing consist of? When
 15 you say "auditing of sales offices," what is that?
 16 A. Primarily, at that time – the job has
 17 changed over the years, but primarily at that time
 18 it was – instead of auditing or being responsible
 19 for an individual representative, I had to go in
 20 and review the accounts of all the representatives
 21 in the office. And it was primarily to determine
 22 whether or not they were taking funds from the
 23 company. You occasionally got into other
 24 irregularities, but it was primarily monetary
 25 auditing.

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1 Q. When you moved to Tulsa in January of
 2 1973, what did you move to Tulsa to do?
 3 A. I was manager of what was called cash
 4 control and accounting at that time. It was
 5 primarily the check-writing operation.
 6 Q. Let's just briefly run through your career
 7 with Met, and get it in some chunks of time here
 8 and then we can come back and go over it.
 9 A. Okay.
 10 Q. You stayed in that function about how
 11 long?
 12 A. I would almost – I am somewhat poor at

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13 remembering those things, it is spelled out in my
14 application, which you have that document.
15 Q. I won't hold you to the dates. --
16 A. Okay.
17 Q. -- just give us a general --
18 A. The cash control and accounting division,
19 when it started, had about 11 people. It then
20 assumed responsibility for transferring our premium
21 payments from our sales offices, where the
22 processing of premium payments from our sales
23 offices to our service center, where it grew to
24 approximately a hundred-plus employees, probably
25 about four years. So that would put it somewhere

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16
1 around '77, I guess, I was promoted to a position
2 of divisional manager, which meant I had the
3 responsibility for other managers in the building.
4 I was, in essence, reported directly to the vice
5 president and held that job, oh, probably three or
6 four years, I'm not sure exactly, until the
7 position was eliminated, at which time I accepted a
8 demotion and became manager of the Human Resources
9 operation.

10 While in Human Resources, I had
11 responsibility and some of this overlapped, I can't
12 give you the exact times, I had responsibility for
13 the financial control area, which was all the
14 budget and expense activity for the service center
15 as well as the field operations.

16 I also was responsible for managing our
17 personal health insurance and employee benefit plan
18 division for part of that time.

19 Then -- and I should -- it is probably
20 relevant to go back and say that at one point while
21 I was divisional manager, working directly with the
22 senior vice president as, in essence, a project
23 assignment, we initiated MetLife's first call
24 center operation.

25 Q. We will come back to that.

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1 A. Okay, that's fine.

2 Q. I am really just interested --

3 A. Okay.

4 Q. -- in the chain of job titles.

5 A. Okay.

6 Q. Then we can come back and cover --

7 A. Fine.

8 Q. -- the evolution of those jobs and what
9 you did in far more detail.

10 A. Okay.

11 Q. I am just trying to get the skeleton, --

12 A. Sure.

13 Q. -- we can come back and put the skin on
14 it.

15 A. In 1986, I was asked by senior vice
16 president Frank Lynch to go back and -- or, in
17 essence, assume managerial responsibility for the
18 Teleservicing operation for individual business.
19 There were some other reorganization-type things
20 going on, and I held that position until August
21 22nd of 1996.

22 Q. And you are currently employed by MetLife,
23 correct?

24 A. Yes.

25 Q. What is your current job title?

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1 A. Director of Planning, Development &
 2 In-Force Management.
 3 Q. And you have been employed consistently by
 4 MetLife from 1962 up to today?
 5 A. Yes. Other than the period when I did not
 6 have a formal position.
 7 Q. But you continued on the payroll --
 8 A. Yes.
 9 Q. -- and then you get paid?
 10 A. Yes.
 11 Q. You have not worked for any other
 12 companies during this --
 13 A. No.
 14 Q. -- 1962 to the present?
 15 A. Right.
 16 Q. All right. When you moved to Tulsa in
 17 January of 1973, you became manager of cash control
 18 and accounting?
 19 A. (Affirmative head nod).
 20 MR. POOR: Why don't we take a short
 21 break.
 22 THE WITNESS: Sure.
 23 (Brief recess.)
 24 MR. POOR: Would you please read back my
 25 question.

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1 (The last question and answer were read by the
 2 reporter.)
 3 Q. (BY MR. POOR) The answer is "yes."
 4 Okay. And you held that position until you became
 5 divisional manager?
 6 A. Yes.
 7 Q. What did you do as manager of cash control
 8 and accounting? Let's start at the beginning
 9 before the processing of premium payments was
 10 transferred in.
 11 A. The initial position when I came out here
 12 was a very small unit. It was responsible for
 13 writing and controlling all the disbursement and
 14 checks for policy transactions, such as cash
 15 surrenders, loans, dividend withdrawals, death
 16 claims.
 17 Q. So this function was the function that
 18 actually got a piece of paper to the policyholder,
 19 the check to the policyholder?
 20 A. The check, yes.
 21 Q. Was there any other similar function of
 22 that elsewhere in MetLife or is this where that --
 23 is it centralized in Tulsa?
 24 A. No. When we came out here in '73, it was
 25 a part of a company's decentralization program, and

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1 there were a number of similar offices all assigned
 2 a specific geographic part of the country. And we
 3 did it for that geographic part of the country.
 4 Q. For the region covered by Tulsa at that
 5 time?
 6 A. Yes.
 7 Q. During this period when you were manager
 8 of cash control and accounting, as you have already
 9 told me, there came a time when the processing of
 10 premium payments function was transferred into your
 11 unit --
 12 A. Yes.

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13 Q. — or moved into your unit?
 14 A. Yes.
 15 Q. What was that function?
 16 A. Basically, prior to that function, our
 17 premium payment or the policyholders mailed premium
 18 payments to their local sales office, and we had
 19 somewhere around I think probably 1200 sales
 20 offices, and it was centralized in each of the
 21 service center locations.

22 So that payment processing function with
 23 the checks and the deposits and all of that was
 24 moved into the service center and that's what I had
 25 responsibility for, the transition and then the

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1 ongoing management.
 2 Q. Were there other service centers around
 3 the country doing similar kinds of functions?
 4 A. Yes.
 5 Q. This is another responsibility you had for
 6 the Tulsa region? Was this also a regional based,
 7 geographic based?

8 A. At that time they were referred to as
 9 "territories," but yes.

10 Q. You held that position until you were
 11 promoted to the divisional manager position?

12 A. Yes.

13 Q. What functions did you supervise as
 14 divisional manager?

15 A. It's a little bit hard to describe. I
 16 reported directly to what was then known as the
 17 operations vice president, and I did various and
 18 sundry project management types of things at
 19 various times, specific divisions and those
 20 managers reported to me. But it was — and also at
 21 that time I did specific projects and handled
 22 things for our officer in charge. It was just a
 23 general support management function.

24 Q. The operations VP, let's start from the
 25 initiation of your — you moved into that

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22

1 position —
 2 A. Yes.
 3 Q. — and reported to whom?
 4 A. Will Hartshorn.
 5 Q. Did you have any direct reports to you?
 6 A. At various times, I did, yes.
 7 Q. At the beginning?

8 A. Throughout — throughout — to be honest,
 9 I just really don't remember a lot of it, other
 10 than the fact that at various times I would be
 11 asked to look over specific functions and have them
 12 report to me.

13 I had the Human Resources reporting to

14 me. I had other divisions reporting to me off and
 15 on, depending upon what the need, in other words,

16 where there was a need for closer direct
 17 supervision or management of the operation or of

18 that particular function or activity, then I was

19 generally the one that was assigned that task.

20 Q. You then moved into the manager of Human

21 Resources position about 1983?

22 A. Yes. It is somewhere in that

23 neighborhood; I would have to —

24 Q. And that was a result of the elimination

25 of the divisional manager position, correct?

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1 A. Yes.
 2 Q. How were you informed that the divisional
 3 manager position was being eliminated?
 4 A. I don't recall specifically, it was after
 5 a period of disability with my first surgery that I
 6 actually came back to work and found out that my
 7 official position title had changed to manager of
 8 special projects or something like that.
 9 Q. And then from there you transitioned to
 10 manager of Human Resources?

11 A. Yes.
 12 Q. Did you become aware that the divisional
 13 manager layer was eliminated throughout MetLife?
 14 A. Yes.
 15 Q. You indicated that shortly before this you
 16 had been out on a period of disability.

17 A. Yes.
 18 Q. For what condition?
 19 A. Triple bypass.
 20 Q. This was your first triple bypass?
 21 A. Yes.
 22 Q. When did you have that surgery?
 23 A. I think it was October 1982, but I would
 24 really have to confirm that with the medical –
 25 Q. That's all right.

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1 A. I mean it is documented in some of that
 2 stuff you have got.
 3 Q. And then you were out for a period of
 4 disability recuperating from the surgery, –
 5 A. Yes.
 6 Q. – the bypass?
 7 A. (Affirmative head nod).
 8 Q. When you became manager of the Human
 9 Resources function, to whom did you report?
 10 A. There was a new operations officer brought
 11 in, Mr. Hartshorn had been assigned a different
 12 level of responsibility, and it was Dennis
 13 McAuliffe.
 14 Q. Let me understand the organization of the
 15 Tulsa facility now. At that point in time, at the
 16 point in time that you were the manager of Human
 17 Resources, you reported to Mr. McAuliffe, who held
 18 what position?
 19 A. I do not know what the official title was,
 20 but, in essence, he took over responsibility for
 21 all the then existing operations with the exclusion
 22 of the Teleservicing and Telemarketing operation.
 23 Q. Okay.
 24 A. But all the normal divisions reported to
 25 Dennis.

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1 Q. Generally, what were those divisions?
 2 A. They would have been policyholder
 3 services, at the time I think there was claims;
 4 there may have been – there was personal health
 5 insurance and employee benefit plans, and the
 6 organization has undergone so many changes, I mean
 7 the basic functions are there, but –
 8 Q. Then Teleservicing was somewhere else, or
 9 not physically, but reporting somewhere else?
 10 A. Reporting to Mr. Hartshorn.
 11 Q. And Mr. McAuliffe – I didn't quite
 12 understand your answer. Did he report also to Mr.

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13 Hartshorn?
14 A. No, he reported directly to our officer in
15 charge at that time.
16 Q. And who was that?
17 A. That was Robert J. Crimmins.
18 Q. Was Mr. Crimmins physically located in
19 Tulsa at that time?
20 A. I believe so. And we went through so many
21 officers in charge and their tenures. He reported
22 to -- he reported to Mr. Crimmins at that time, but
23 I believe then we also had other ones come in, and
24 I am not sure exactly when, for example, Mr.
25 Crimmins left Tulsa.

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1 Q. But there was a period of time where Mr.
2 Crimmins was physically located in Tulsa?
3 A. Oh, yes. He was located there for
4 approximately four -- four to five years, I
5 believe.
6 Q. As manager of Human Resources, what
7 positions did you have reporting to you?
8 A. The only -- the only divisions, and they
9 didn't actually report to me, I was also
10 responsible for the day-to-day management at
11 various times of the personal health insurance,
12 employee benefit plans and also the financial
13 management function or financial control function.
14 Q. As manager of Human Resources, did you
15 have people reporting to you?
16 A. Yes, I did.
17 Q. What kinds of people -- when I said who is
18 reporting to you --
19 A. Oh, okay.
20 Q. -- what I meant was, not necessarily the
21 names of the human beings, but the kinds of jobs,
22 personal clerk or benefit specialist or whatever
23 you might have reporting to you.
24 A. Okay. We had -- primarily at that time we
25 had two specialists that basically were responsible

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1 for all the important activities relative to the
2 administering company policies, dealing with the
3 necessary EEOC reporting, all that sort of thing,
4 compensation, compensation planning. We also had
5 benefits administration, and I -- there were, like,
6 five or six people in there at the time. I'm not
7 sure of the number.
8 Q. And your group provided the Human
9 Resources support for the Tulsa facility?
10 A. Yes.
11 Q. Including Teleservices, even though that
12 reported elsewhere?
13 A. Yes.
14 Q. During the period you were in Human
15 Resources, which is now about a three-year -- '83
16 to approximately '86, approximately, --
17 A. (Affirmative head nod).
18 Q. -- what was the size of the Teleservicing
19 function in Tulsa? Approximately.
20 A. It was a combination of what was called
21 Teleservicing and Telemarketing, and I'm guessing,
22 I think it was like 25 or 30 people.
23 Q. Was Mr. Hartshorn the direct manager or
24 was there actually a manager of that function?
25 A. There was a manager of that function.

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1 Q. Who was the manager during that time
2 period?
3 A. Barbara Gardner.
4 Q. You had indicated in response to a prior
5 question that you played a role in the creation of
6 the Teleservicing –
7 A. Yes.
8 Q. – function. When did that function first
9 come to exist in the Tulsa facility?
10 A. I believe it was around October of 1982.
11 Q. So this was shortly before your movement
12 into Human Resources while you were still
13 divisional manager?
14 A. Yes.
15 Q. Okay.
16 A. It – okay. It may have gone live like in
17 October 1982, we actually started on it at the
18 beginning and then developing the thing somewhere
19 earlier in the year.
20 Q. Okay. So it was during 1982?
21 A. Yes.
22 Q. Okay. You say "we" did the planning, who
23 is the team?
24 A. Basically, it was the brain child of
25 Robert J. Crimmins.

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1 Q. Who was the officer in charge at that
2 time?
3 A. Yes.
4 Q. What was his direction or what was it he
5 wanted to create at the Tulsa facility as it
6 related to – I am just focusing on Teleservicing
7 at this point.
8 Let me ask it a different way. What was
9 his direction to the team at Tulsa in terms of what
10 he wanted to see created?
11 A. He wanted to see a world class customer
12 service organization or operation that could also
13 capitalize on the marketing potential of providing
14 that level of service.
15 Q. Was there a group of people assigned the
16 responsibility of planning, developing, putting
17 this type of Teleservicing organization in place?
18 A. I was the primary person, and I selected
19 all the people that were a part of the original
20 operation.
21 Q. Who was involved in the planning of the --
22 I'm not talking about the section of the people
23 actually answering the phones or supervising the
24 people answering the phones, but in terms of the
25 group of people responsible for planning what the

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1 organization would look like, the functions would
2 be, et cetera. Who was involved in that, in
3 addition to yourself?
4 A. Okay. Probably everyone was involved. I
5 mean I was taking primary direction from Mr.
6 Crimmins, but I believe that it was a collaborative
7 effort of the entire management team in the office.
8 Q. Who was on the management team at that
9 time?
10 A. Oh, boy.
11 Q. As you can recall, that had a role in
12 planning the Teleservicing function?

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13 A. The segment was headed up -- the managers
14 at that time, some of them would have been Lucian
15 Rizzo, Don Lyons, James Ruede. And it's just hard
16 for me to recall at the various times who was there
17 without checking some information.

18 Q. Where was Ms. Gardner in the organization
19 prior to responsibility for the Teleservices and
20 Telemarketing?

21 A. She was in Human Resources, as I remember.
22 Q. Okay.

23 A. She was also in the position I vacated,
24 what was then became known as financial electronic
25 services at some period too, but --

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1 Q. But at the time she was in the Human
2 Resources position?
3 A. That's my recollection, yes.
4 Q. Okay. How did it come about that you
5 became manager of Human Resources in this 1993 time
6 period?

7 A. 1983?
8 Q. I mean 1983 time period.
9 A. It was important that I have a formal
10 job. The one I had was, as I indicated, was
11 temporary and not a formal position, and I had to
12 have a formal job, and I requested to Mr. Crimmins
13 that that is the position I would like to have.

14 Q. Had that position been previously held by
15 Ms. Gardner?

16 A. Yes.

17 Q. And she then moved over to become the
18 manager of Teleservices?

19 A. Yes.

20 Q. Okay. As manager of Human Resources and
21 Ms. Gardner as manager of Teleservices, were you
22 roughly peers?

23 A. On paper, it would look that way, yes, but
24 it was kind of a different organization at the
25 time.

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1 Q. Why was it -- and I assume you had
2 conversations with Mr. Crimmins about where you
3 were going to fall in the organization with the
4 elimination of the divisional manager position and
5 what job you were going to have, et cetera.

6 A. Yes.

7 Q. Why was it that you wanted in the Human
8 Resources position as opposed to the Teleservices
9 area?

10 A. Because Mr. Hartshorn was being placed in
11 charge of Teleservices at that time and I decided I
12 would rather not report to him.

13 Q. Why is that?

14 A. At the time I felt a little betrayed.

15 Q. By Mr. Hartshorn?

16 A. Hartshorn.

17 Q. And can you please describe to me why,
18 what had happened to make you feel that way?

19 A. I saw the potential elimination of my
20 position.

21 Q. Now, the divisional manager position --
22 A. Yes.

23 Q. -- we are talking about.

24 A. And I just had a lot of difficulty
25 accepting that he did not give me warning and tell
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1 me up front that it had been eliminated and my job,
2 official job title had changed.
3 Q. At the time were you aware that the
4 divisional manager position was being eliminated
5 throughout MetLife?

6 A. There was another position, another –
7 it's a little complicated, but in most of the other
8 offices, they did not have a divisional manager
9 position. They had two assistant vice-presidents,
10 one was operations, one was services.

11 The intent was that all of the individuals
12 in those positions or the majority of them felt
13 that it should be a full vice president. And,
14 basically, the deal or whatever that was struck was
15 we will make them full vice president positions if
16 there is only one officer position in the office.
17 So in the other offices, instead of losing a
18 divisional manager, they were losing one of their
19 assistant vice-presidential positions.

20 Q. But there were these positions at this
21 level being eliminated throughout –

22 A. Yes.

23 Q. – the offices; this was not just Tulsa.

24 A. Right.

25 Q. It was not just you.

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1 A. Right. I did not – yes.
2 Q. And I take it the problem you had with Mr.
3 Hartshorn didn't relate to that more global
4 decision, but to the way he had handled it in
5 communicating or more properly failing to
6 communicate to you?

7 A. Yes. Mr. Hartshorn, and in hindsight, he
8 was still one of the best people I ever worked for,
9 typically was very honest and up front with me and
10 we had an excellent working relationship. And, as
11 I said, there was a time when I was coming back
12 from my surgery and I did have just a sense of
13 betrayal at the time and confronting the fact that
14 I was going to have to take a demotion, I would
15 have taken it much better if he had just been
16 honest with me and up front, but in hindsight, I
17 recognize that that was just a difficult thing for
18 him to do.

19 Q. Did you explain these feelings to Mr.
20 Crimmins, as the reason why you did not want to go
21 to the Teleservicing?

22 A. Yes, I believe I did.

23 Q. Okay. Did Mr. Hartshorn report to Mr.
24 Crimmins?

25 A. Yes.

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1 Q. In the function of Human Resources, you
2 reported to Mr. McAuliffe?
3 A. Yes.
4 Q. Who, in turn, reported to Mr. Crimmins?
5 A. Yes.
6 Q. And so Ms. Gardner was moved over to be
7 the manager in Teleservicing, and you took over the
8 position of manager of Human Resources?
9 A. Yes.
10 Q. Until 1986, when you left the manager of
11 Human Resources position and moved over to
12 Teleservicing?

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13 A. Yes, I had -- I believe -- I would have
 14 to go back and check the records, but I actually
 15 had responsibility for both of them for some short
 16 period of time, as I recall.
 17 Q. Shortly before --
 18 A. Before I just became manager of
 19 Teleservices, yes.
 20 Q. Where did Ms. Gardner go?
 21 A. A good question. I'm not sure where she
 22 went immediately following the Teleservices
 23 position, and I guess it was a couple of years
 24 later, whenever, that Mr. McAuliffe left Tulsa and
 25 she became the operations officer.

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 1 Q. And you moved over to manage the
 2 Teleservicing function, you still reported to Mr.
 3 McAuliffe?

4 A. Yes.

5 Q. Okay. Mr. Hartshorn was now out of the
 6 picture in terms of having responsibility for
 7 Teleservices?

8 A. At the time I took over Teleservices, as I
 9 indicated, there was a -- it was involved in a
 10 reorganization. And part of that organization at
 11 that time was assumed by our office in Florida.
 12 I'm not -- I'm not sure of the exact events, but
 13 Mr. Hartshorn left our office, went to work in the
 14 pensions department.

15 Q. Who talked to you about the possibility of
 16 you moving over to Teleservices?

17 A. My recollection is that it was prompted as
 18 a result of a meeting with Frank Lynch, when he
 19 visited our office. And, as I recall, I had been
 20 told that he was interested in having me assume
 21 responsibility for Teleservices.

22 Q. What position did Mr. Lynch hold at that
 23 time?

24 A. I'm not sure what the official title was,
 25 but he was, I believe, the senior officer within

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1 individual life insurance or personal insurance as
 2 it was known at that time, responsible for the
 3 operations of its service centers, or head offices,
 4 as it was known at that time.

5 Q. Okay. This is in the 1985-86 --

6 A. '86.

7 Q. 1986.

8 A. As I recall, it was 1986.

9 Q. Okay. And at that point in time you
 10 reported to Mr. McAuliffe, who reported to Mr.
 11 Crimmins?

12 A. My hesitation is that I'm not sure exactly
 13 when Mr. Crimmins left Tulsa and when Dennis might
 14 have reported to another officer in charge out
 15 there.

16 Q. Okay. But you still reported to Mr.
 17 McAuliffe?

18 A. Yes.

19 Q. He, in turn, reported to the officer in
 20 charge, --

21 A. Yes.

22 Q. -- who was either Mr. Crimmins or someone
 23 else?

24 A. Yes.

25 Q. And Mr. Lynch was above the officer in

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1 charge? I'm trying to understand the hierarchy.
2 A. Yes. Organizationally, and I don't know
3 how the organization chart would have been defined
4 at that time, the officer in charge was responsible
5 for all activities of the office, including the
6 marketing side of the field organization.

7 Mr. Lynch had responsibility for the
8 administrative operations, not only within those
9 offices, as I recall, the position has changed a
10 number of times, but also some of the support
11 functions at the time, again, as I recall. He's
12 been in and out of that position a couple of times.

13 Q. Okay. But at the time - I am now focused
14 on the time of this meeting where you had the

15 conversation -

16 A. Okay.

17 Q. - with him.

18 A. Yes.

19 Q. At that point in time, at least within -

20 "IL" refers to "individual life insurance"?

21 A. Yes.

22 Q. Okay. Within that line of business, Mr.

23 Lynch was - he was from New York -

24 A. Yes.

25 Q. - or at least from the headquarters?

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1 A. (Affirmative head nod).
2 Q. And had pretty senior responsibilities
3 for, at least, part of the Tulsa operations?
4 A. I don't know how you would define the
5 reporting relationships of the offices, but, in
6 essence, Dennis or the operations officer had some
7 accountability to Mr. Lynch on administrative
8 operations, but they also were directly accountable
9 to the officer in charge.

10 Q. Okay. What had occasioned Mr. Lynch to
11 have this trip meeting. I assume the event you are
12 talking about is a personal discussion or meeting
13 with him in Tulsa.

14 A. The meeting was a general meeting that I
15 think was part of his regular -- regular agenda of
16 meetings, and it was just discussed at that time.
17 I really don't remember exactly how it all
18 transpired. My recollection is that he indicated
19 he would like me to become involved and at the time
20 management got me involved and he was out there,
21 and we talked about it, and I could be getting the
22 meetings mixed up, but we did a presentation. But
23 it was part of his regular visits to the office, as
24 far as I remember.

25 Q. Prior to this general meeting that he

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1 held, you were aware that he was coming out?
2 A. Yes.
3 Q. And I am trying to understand, I am trying
4 to understand what you are telling me. Prior to
5 him coming out, you received some form of
6 information that Mr. Lynch was interested in
7 hearing from you or having you become involved with
8 Teleservicing?

9 A. That's my recollection, but it's not very
10 clear to me at all the exact chain of events at
11 that time.

12 Q. Okay. Do you have any recollection of

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13 from whom or how you came to have that belief?
14 A. I assumed that it was as a result of
15 conversations I would have had with Dennis,
16 that's -- that's -- he would have been the one to
17 tell me that.

18 Q. You don't have a specific recollection --

19 A. No.

20 Q. -- of that, but that would seem to be how
21 it would come about?

22 A. There may be something in all the
23 documentation that I have provided that would
24 trigger a more concise memory, but --

25 Q. Okay. Now, at that point in time, you
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1 were providing Human Resource support to the
2 Teleservicing area?

3 A. Yes.

4 MR. RAYL: Excuse me, Mr. Poor, could we
5 take a short recess at your next convenience,
6 stopping point?

7 MR. POOR: We can do it now, if you would
8 like, sure.

9 MR. RAYL: Yes, sure.

10 (Brief recess.)

11 Q. (BY MR. POOR) Focusing on this time
12 period shortly before this general meeting you are
13 referring to with Mr. Lynch, were you aware of any
14 dissatisfaction or issues relating to Ms. Gardner's
15 performance as manager of the Teleservicing area?

16 A. Not -- not specifically. There -- no,
17 there were issues associated with the
18 reorganization and the marketing part of it, but,
19 you know, I don't remember.

20 Q. Was there a general reorganization or
21 reshuffling of the deck over on that piece of the
22 business going on generally?

23 A. At the time Ms. Gardner had it, there was
24 a lot of focus on the Telemarketing aspect of the
25 operation, and that was the piece that was being

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1 reorganized and moved to Florida. And, in essence,
2 it was taken away or moved out of the call center,
3 and --

4 Q. You were aware of that prior to the
5 meeting with Mr. Lynch?

6 A. Oh, yes.

7 Q. Okay. And what was being left in Tulsa
8 was the Teleservicing --

9 A. Yes.

10 Q. -- piece? All right. The general, when
11 you say "general meeting with Mr. Lynch," a meeting
12 with whom?

13 A. My recollection is that he typically came
14 out and met with the entire management team of the
15 office.

16 Q. And that is your general recollection of
17 this particular meeting?

18 A. Yes.

19 Q. Okay. I assume there were a number of
20 topics covered in that meeting other than
21 Telemarketing/Teleservices.

22 A. Yes, I assume so.

23 Q. Would these typically be full-day
24 meetings, half day, hour?

25 A. I really don't remember. There's been so
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1 many differences over the years in those –
 2 typically, it's my recollection would be they were
 3 a day.
 4 Q. What do you recall about this meeting as
 5 it related to Teleservicing/Telesales?
 6 A. The only thing I remember, and this
 7 meeting, I guess, would have taken place after I
 8 had some responsibility. The only meeting I
 9 remember is one where we did do a presentation to
 10 Mr. Lynch, and we had prepared some material for
 11 him on the Teleservicing and the directions and
 12 steps we were trying to take.

13 Q. Who is "we"?
 14 A. The Teleservicing organization, the people
 15 that worked there.

16 Q. Who actually did the presentation?

17 A. I don't remember.

18 Q. I mean did you do it personally or –
 19 A. I assume I did, but I really don't – I

20 don't remember.

21 Q. Okay. Was Ms. Gardner at this time
 22 involved in the Teleservicing/Telemarketing?

23 A. Not at the time of this meeting.

24 Q. Okay. So your assumption of at least some
 25 responsibilities for Teleservicing had happened

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1 prior to this meeting?

2 A. Yes.

3 Q. Okay. And then the Teleservicing team put
 4 on a presentation for Mr. Lynch about goals,

5 aspirations, where that function was going to go?
 6 A. We prepared a presentation. We prepared
 7 material. I do not remember the specific
 8 presentation with respect to what necessarily was
 9 discussed or done at that meeting, other than the
 10 fact that we had prepared material for him.

11 Q. Okay. At that time you were also still
 12 manager of Human Resources?

13 A. That's my recollection.

14 Q. Okay. Following that meeting, what
 15 happened with regard to the transfer of your
 16 responsibilities out of Human Resources into
 17 Teleservicing?

18 A. I'm – I don't even remember what the
 19 chain of events at that time, except that I did
 20 ultimately become totally responsible or solely
 21 responsible for Teleservices.

22 Q. And someone else took on the Human
 23 Resource function?

24 A. Yes.

25 Q. At the time you became manager of
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1 Teleservices, whatever your precise title was at
 2 the time, to whom did you report?

3 A. Dennis McAuliffe.

4 Q. What was the size of the -- Can we refer
 5 to it as "call center"?

6 A. Yes, that's fine.

7 Q. All right. What was the size of the call
 8 center at that time?

9 A. It was somewhere between 12 and 15
 10 customer service representatives, and the total
 11 staff was probably 20.

12 Q. With the total staff including supervisors

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13 and perhaps some administrative
14 assistants/secretaries type, clerical types?
15 A. Yes.
16 Q. Okay. What was the basic function of the
17 call center at that point in time? What did the
18 CSRs do?
19 A. They answered all types of questions from
20 individual life insurance policyholders relating to
21 their policies, service they wanted provided, that
22 sort of thing. And we sent out appropriate forms
23 which – when there was a transaction, they wanted
24 to do.
25 Q. Okay. This was an inbound call center?

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1 A. Yes.
2 Q. Were there particular product lines that
3 you were responsible for? Or was it a territory
4 or –
5 A. It started out geographically, very slow.
6 It took it several years before it became
7 nationwide, or we ended up taking half of the
8 country.
9 Q. All right. I am focusing on when you took
10 it over in 1986?
11 A. Okay. It was limited to this territory.
12 Q. Okay. But for all MetLife product lines?
13 A. No, only individual life insurance.
14 Q. Okay. So it started out for ILI for the
15 Tulsa –
16 A. Yes.
17 Q. – territory?
18 A. Yes.
19 Q. Region, whatever it was called at the
20 time. Okay. Were there other call centers
21 elsewhere in the country, either for other product
22 lines or other territories?
23 A. By 1986, I'm not sure. There may have
24 been some that were evolving in the group side.
25 There were no others within personal insurance or

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1 individual life insurance.
2 Q. So at this point in time, the call center
3 was a service provided predominantly to
4 policyholders, customers of the Tulsa Region?
5 A. Yes.
6 Q. I would like to talk a little bit about
7 the evolution of the call center and the functions
8 of it, because I know it grew over this ten years,
9 this '86 to '96 period.
10 As of '96, when you ceased having
11 responsibilities for the call center, approximately
12 how many people worked in the call center?
13 A. Over 200.
14 Q. And what were the customer service
15 representatives, supervisors, clerical staff?
16 A. Telecommunications, training, staff
17 support, resource.
18 Q. Okay. What services were being provided
19 to policyholders by the Tulsa office.
20 A. Okay.
21 Q. I am now focused in 1996.
22 A. Okay.
23 Q. Then we will talk about how it got from
24 one spot to the other.
25 A. In 1996, the individual business call

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1 centers had gone beyond assuming responsibility
2 just for individual life insurance. We also had
3 assumed responsibility for what was known as the
4 corporate 800 number, which was being promoted as
5 the single number any customer could call when they
6 really didn't know where or how to reach the
7 appropriate area within MetLife.

8 Q. Let's focus on the end of '95 for a
9 moment, because I know there was some consolidation
10 of call centers going on in '96.

11 Prior to that consolidation of call

12 centers, --

13 A. Yes.

14 Q. -- what other call centers were there in
15 MetLife?

16 A. There was property and casualty; there was
17 dental; there was disability; there was vision
18 care; there was -- and part of the organization
19 called MetSource. There was annuities, group
20 annuities, and there were basically 22 call centers
21 identified during Phase 2 of MetLife Express.

22 Q. Okay. And those call centers grew up
23 predominantly around various product lines?

24 A. Yes.

25 Q. And the 22 were varying sizes?

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1 A. Yes.

2 Q. Some very small, --

3 A. Yes.

4 Q. -- some relatively large?

5 A. (Affirmative head nod).

6 Q. Okay. What other call centers were there
7 in individual business?

8 A. The other call center was in Warwick,
9 Rhode Island. And between the Warwick and the
10 Tulsa sites, we handled the entire United States
11 for individual life insurance and corporate 800.

12 Q. Okay. With regard to calls that came in
13 on the corporate 800 number with questions other
14 than individual life products, --

15 A. Yes.

16 Q. -- someone called in for a disability

17 policy, for example, --

18 A. Yes.

19 Q. -- and assuming it wasn't just a simple
20 request to be sent information or something, was
21 the function of the CSR to then get that person to
22 the call center with responsibility for that
23 particular product line?

24 A. That was one of the functions, yes. There
25 were a number of initiatives that the company was

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1 undertaking and they would use the corporate 800
2 number to support a wide range of special
3 projects. One of them was our life advice
4 program. So it was a very wide range of calls.

5 Q. Okay. But as to the calls that would, for
6 example, stick with disability.

7 A. Sure.

8 Q. There was at that time a specific call

9 center for the disability --

10 A. Yes.

11 Q. -- product line? That if I had known the

12 right number as a policyholder, that's the number I

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13 should call.
 14 A. Yes.
 15 Q. One of the functions of the CSR in your
 16 area was if the call came to them to get routed, if
 17 that was the issue --

18 A. Yes.
 19 Q. -- to that particular call center.
 20 A. (Affirmative head nod).
 21 Q. Okay. How long had the Warwick facility
 22 been in existence or when did it first come into
 23 existence?

24 A. I believe it was around 1988.
 25 Q. Okay. From 1986 until 1988, the first
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1 couple of years that you had responsibility for the
 2 call center in Tulsa, did your responsibilities
 3 remain the individual business piece in the Tulsa
 4 territory?

5 A. Yes.
 6 Q. Okay. And then Warwick came into
 7 existence in approximately 1988 to do what?
 8 A. There were many discussions during that
 9 period of time as to the future of the call
 10 centers, what their role was to be with an
 11 individual insurance. There were moves where some
 12 people wanted to consider establishing a call
 13 center in each of our offices, but, basically, it
 14 was agreed that the company needed to go with more
 15 than one and the strategy at that time was to at
 16 least start a second one in the Northeast.

17 Q. And Warwick performed similar functions
 18 for the territory out of Warwick?

19 A. Yes.
 20 Q. Okay. So then for a while, policyholders
 21 in the Tulsa territory and policyholders in the
 22 Warwick, the Northeast, had call centers but with
 23 no call center specifically covering --

24 A. Yes.

25 Q. -- other areas of the country?

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1 A. Yes.
 2 Q. Okay. That then changed at some point?

3 A. Yes.
 4 Q. Do you recall, approximately, when that
 5 changed? I mean, let me rephrase it.

6 I know that during this time period other
 7 product-lines are growing, --

8 A. Right.

9 Q. -- call centers. I am now focusing on the
 10 ILI, the individual business piece.

11 A. The entire history is probably in that
 12 folder that covered the advancement of
 13 Teleservices.

14 Q. All right. We will come to that specific
 15 document.

16 A. It was a slow, agonizing process to expand
 17 it nationwide, and -- but it was through the early
 18 Nineties.

19 Q. Okay. Were there at any point other call
 20 centers handling the ILI individual business other
 21 than Warwick and Tulsa up through this '95 time
 22 period?

23 A. No.

24 Q. Okay. We are back up to 1986. I
 25 understand your reporting relationships, I want to
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1 understand how they changed. I think you told me
2 when you moved over to the customer service or into
3 the call center, you continued to report to Mr.
4 McAuliffe.
5 A. Yes.
6 Q. Mr. Hartshom had moved over to the
7 pension area.
8 A. Yes.
9 Q. How long did you continue to report to Mr.
10 McAuliffe?
11 A. I don't remember specifically. It was
12 not – it was until Barbara Gardner became our
13 operations officer.
14 Q. Okay. And then you began reporting to Ms.
15 Gardner?
16 A. Yes.
17 Q. How long did you continue to report to Ms.
18 Gardner?
19 A. Until the call center became a part of
20 business services group, which was probably around
21 April 1996 or early 1996.
22 Q. Okay. How did you become aware that Ms.
23 Gardner was becoming your supervisor?
24 A. When it was announced that she would be
25 the replacement for Dennis.

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1 Q. Where did Mr. McAuliffe go?
2 A. He went back to the home office.
3 Q. Were you aware he was moving back to the
4 home office?
5 A. I don't remember the exact circumstances
6 as to what transpired when he was losing his
7 position in Tulsa.
8 Q. Okay. Is it your recollection that at the
9 time it was announced that Ms. Gardner was assuming
10 the operations officer position, is it your
11 recollection that that was the first time you heard
12 that Mr. McAuliffe was leaving or had you known
13 sometime before then?
14 A. No, as I – no, we knew he was leaving and
15 I am just trying to remember whether we posted for
16 the position or not. I don't remember, but we knew
17 he was being replaced.
18 Q. Did you talk to anyone about you being
19 considered for that position?
20 A. I'm sure I did, but I don't specifically
21 remember. Like I said, I can't remember whether
22 there was a posting process when that occurred or
23 not, but I certainly considered myself a candidate.
24 Q. Do you recall being interviewed for the
25 position?

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1 A. Not specifically.
2 Q. Do you know who made the decision, the
3 selection decision, for the replacement for Mr.
4 McAuliffe?
5 A. I believe it was David G. Martin.
6 Q. What was his position?
7 A. He was the officer in charge.
8 Q. Okay. Do you recall having any
9 conversations with Mr. Martin about your interest
10 in the job or your candidacy for the job, however
11 you care to describe it?
12 A. I don't remember the specific – any

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13 specific discussions that I had, no.
 14 Q. But do you recall there being discussions?
 15 A. I can't honestly say I do.
 16 Q. Okay. Prior to the announcement that Ms.
 17 Gardner was assuming this position, did you have
 18 any conversations with her about her candidacy or
 19 her consideration for the position?
 20 A. I know we had one discussion on the
 21 subject, but I really don't -- I don't remember the
 22 nature of the content of the discussion. I just
 23 remember that we did discuss it one day. I believe
 24 she came to my office, but I don't remember.
 25 Q. Do you have any recollection other than

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1 her just coming to your office on this topic about
 2 anything that was said or done in that
 3 conversation?
 4 A. Nothing that I would -- nothing that I
 5 would want to say with any degree of certainty, no.
 6 Q. Do you recall her asking you for your
 7 support in the event of her appointment to that
 8 position?
 9 A. I don't specifically recall that; no, I

10 don't specifically recall that.
 11 Q. Did Mr. Martin or anyone else ask you
 12 about Ms. Gardner's candidacy for that position?

13 A. No.
 14 Q. Okay.
 15 A. Not that I remember.
 16 Q. What was your reaction to the appointment
 17 of Ms. Gardner for that position?
 18 A. My reaction was surprise and not surprise.
 19 Q. Well, take them one at a time. Why were
 20 you surprised?
 21 A. Because there were a number of
 22 longer-service, more experienced managers who could
 23 have been considered for the position.
 24 Q. I assume including yourself.
 25 A. Including myself.

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1 Q. And do you have any reason to believe
 2 those people were not considered?
 3 A. No.
 4 Q. Okay. Certainly they were not selected?
 5 A. Right.
 6 Q. Putting aside yourself, did you believe
 7 that there were other candidates in the Tulsa
 8 facility more qualified for the position than Ms.
 9 Gardner?
 10 A. Yes.
 11 Q. Who are those people?
 12 A. I would have believed that Don Lyons would
 13 have been a reasonable candidate for the job.
 14 Q. What was Mr. Lyons' position in the
 15 company at that time?
 16 A. I'm not sure. He had a number -- I don't
 17 remember.
 18 Q. He was relatively at your peer level?
 19 A. He was a peer, yes.
 20 Q. Someone you --
 21 A. Yes.
 22 Q. What was it about Mr. Lyons that you are
 23 aware of about his background or skills or
 24 experiences that you felt made him better qualified
 25 than Ms. Gardner?

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1 A. He has a very good mind. He's certainly
2 lived through the creation of the building and
3 understood the work and the work flow issues and
4 things like that. But by the same token, he had
5 his strengths and weaknesses like we all do.

6 Q. Ms. Gardner had her strengths and
7 weaknesses?

8 A. Yes.

9 Q. You have your strengths and weaknesses?

10 A. Yes.

11 Q. You also say you were not surprised. And
12 why were you not surprised?

13 A. Barbara, and this is in no way meant as a
14 criticism, because it is clearly what the company
15 has become and what it rewards, but she -- she
16 understood the politics and knew how to use the
17 politics for advancement, as many people do.

18 Q. Now, focusing on that particular point in
19 time, when she becomes --

20 A. Yes.

21 Q. -- when the announcement is made, I know
22 we are not quite sure when that was, when you say
23 she understood the politics and knew how to use it
24 for advancement, what are you referring to? And
25 now, again, I am putting you back in the time frame

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1 at that time. We will cover subsequent events down
2 the road.

3 A. It was probably to provide -- I don't
4 think I can answer that with any specificity.
5 There's just a lot of things there. I mean --
6 well, --

7 Q. Give me an example of what you are talking
8 about, that would have happened by that point in
9 time?

10 A. Okay. One example would be that you
11 consistently say the right thing at the right times
12 to provide people with what they would prefer to
13 hear or --

14 Q. Can you give me an example of something
15 involving Ms. Gardner that would have happened
16 where you felt that --

17 A. No, I mean I don't know that there is
18 anything specific. It is just a difference in
19 management styles, that's all.

20 Q. What was the difference in management -- I
21 assume when you say "difference in management
22 styles," meaning a difference in your management
23 style.

24 A. Yes.

25 Q. What was the difference in management
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1 styles that you saw between you and Ms. Gardner?
2 Describe what you mean by that statement for me.

3 A. My management style was to consistently
4 say what I thought when an issue was in either the
5 company's interest or the customer's interest. And
6 I had a very defined feeling as to right and wrong,
7 and I -- I would not hesitate to voice an unpopular
8 opinion.

9 Q. And contrast that with Ms. Gardner.

10 A. It just wasn't her personality style to --
11 she didn't -- well, those things weren't the big
12 issues with her. They were with me.

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13 Q. What things?
14 A. Voicing an opinion, for example, when you
15 know it's contrary to the general feeling or
16 atmosphere.

17 Q. How often did you have an opportunity to
18 work with Ms. Gardner in the context where you
19 would observe this particular management style?
20 Again, I am now talking about on or before her
21 appointment as your boss.

22 A. There's no specific; she worked there from
23 whatever date she worked there and every manager
24 had a different management style.

25 Q. Okay. Prior to her becoming the
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1 operations officer, you had not worked for her?

2 A. No.

3 Q. Okay. Had she ever worked for you?

4 A. Yes.

5 Q. Okay. What period of time?

6 A. She was -- actually, I was partially
7 responsible for hiring her when I was in Human
8 Resources.

9 Q. Okay.

10 A. I believe I was in Human -- no, I believe
11 I was -- no, I was not in Human Resources, I was
12 divisional manager.

13 Q. So you were a part of the team that hired
14 her?

15 A. Yes.

16 Q. Into what position?

17 A. I believe it was our finance and
18 electronics services at that time, but I'm not
19 sure.

20 Q. Okay. When she came on board, did you
21 then have any supervisory responsibility for her?

22 A. If I did, I don't specifically remember
23 it. I may have for some brief period of time, but
24 I don't remember.

25 Q. Okay. And then throughout the years there
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1 would be management meetings or --

2 A. Yes.

3 Q. -- Tulsa meetings where you and she would
4 participate in the same kind of meeting?

5 A. Yes.

6 Q. Okay. Did you express to anyone in the
7 MetLife hierarchy any dissatisfaction or concerns
8 over the placement of Ms. Gardner into this officer
9 position?

10 A. I don't recall saying anything to anyone
11 at that time about her getting the position, but
12 it's -- but I may have.

13 Q. Okay. Did anyone ever discuss with you
14 why Ms. Gardner was selected for that position as
15 opposed to you?

16 A. Not to my recollection.

17 Q. Okay. Do you know anyone else who was
18 involved in that decisionmaking process other than
19 Mr. Martin?

20 A. No.

21 Q. Okay. How long had Mr. Martin been the
22 officer in charge at that point in time?

23 A. I don't remember.

24 Q. Okay. Had he come through the Tulsa
25 organization or did he come elsewhere from the
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1 company?
 2 A. He came from elsewhere.
 3 Q. Okay. Now, at the time you started
 4 reporting to Ms. Gardner, let's see if I can
 5 understand the reporting structure, she would have
 6 reported to Mr. Martin?
 7 A. Yes, she did at that time, yes.
 8 Q. He was OIC?
 9 A. Yes.
 10 Q. She was the operations officer, --
 11 A. Officer.
 12 Q. -- whatever?
 13 A. Yes.
 14 Q. And then you, in turn, reported to Ms.
 15 Gardner?
 16 A. Yes.
 17 Q. Okay. She had others reporting to her as
 18 well, I presume.
 19 A. Yes.
 20 Q. Did she have the entire Tulsa facility
 21 reporting to her?
 22 A. Yes.
 23 Q. Do you have a recollection of the size of
 24 call center at this point in time?
 25 A. No. The growth was slow, but I don't
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1 remember.
 2 Q. During the years that you reported to Ms.
 3 Gardner, did you find her to be supportive of what
 4 you wanted to do in the call center?
 5 A. Most of the time.
 6 Q. And then there are occasions when she
 7 disagreed, I assume, with what you wanted to do.
 8 A. We have had our ups and downs, yes.
 9 Q. What kind of day-to-day interaction did
 10 you have with Ms. Gardner as it related -- I am not
 11 talking about passing in the hall and saying
 12 "hello," I am talking about on a business --
 13 A. In general, there wasn't a lot of day to
 14 day; I mean it was -- it was either contact
 15 through -- for a specific purpose or a managers'
 16 meeting or some other formal occasion. I mean --
 17 Q. Were there regularly-scheduled management
 18 meetings, --
 19 A. Yes.
 20 Q. -- staff meetings?
 21 A. (Affirmative head nod).
 22 Q. How often would you have managers'
 23 meetings?
 24 A. I really can't say in the beginning; in
 25 the later years, it was weekly.

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1 Q. Did the call center remain an inbound call
 2 center during the period of time you supervised it?
 3 A. Yes. It still is.
 4 (A certain document was marked Deposition
 5 Exhibit 1 for identification by the reporter.)
 6 Q. (BY MR. POOR) I am handing you what has
 7 been marked as Deposition Exhibit No. 1, Mr. Ray.
 8 A. Uh-huh.
 9 Q. Take a second to look at it and tell me
 10 when you have had an opportunity to do that. I
 11 have some questions about the substance of the
 12 document, but predominantly I am going to try to

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13 use it to try to get some context in terms of time,
 14 in terms of reporting to Ms. Gardner and the call
 15 center operations.
 16 A. Okay.
 17 Q. Okay. This is a letter, I take it, the
 18 last three pages are a letter you wrote to a fellow
 19 named Len Miller.
 20 A. Yes.
 21 Q. And you forwarded a copy to -- it says
 22 "To: Barbara," I assume that's Ms. Gardner.
 23 A. Right.
 24 Q. And you dated it October 10, 1989?
 25 A. Yes.

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 1 Q. Do you recall, do you recognize this memo?
 2 A. I recognize it, yes.
 3 Q. Okay. I assume by October 10th of 1989,
 4 Ms. Gardner was now your --
 5 A. Yes.
 6 Q. -- supervisor?
 7 A. (Affirmative head nod).
 8 Q. Okay. Does this help you in any way
 9 recollect about when she became the operations
 10 officer?
 11 A. No, other than I would -- I mean it seems
 12 that it could have easily been for the last
 13 nine to ten years, so '88 wouldn't surprise me.
 14 Q. Okay. So somewhere a couple years after
 15 you took over the call center?

16 A. Yes.

17 Q. Okay. Who was Len Miller?

18 A. Len Miller was, and I do not remember
 19 at -- Teleservicing has been through a tremendous
 20 evolution and maze of reporting relationships. Len
 21 was primarily in charge of our electronic systems,
 22 but during part of that time Teleservicing actually
 23 had a reporting relationship with him in addition
 24 to the one we had locally.

25 And at this particular point in time, I

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1 don't know, other than he was involved from a
 2 systems perspective.
 3 Q. He was a MetLife employee?
 4 A. Yes, vice president, assistant vice
 5 president, I think is what I said, vice president.
 6 Q. And the letter related to certain
 7 remarks. I am now looking at the second line.
 8 A. Uh-huh.
 9 Q. It says, "Barbara" -- meaning Barbara
 10 Gardner, I presume.
 11 A. (Affirmative head nod).

12 Q. "spoke with me about my remarks during the
 13 conference call that was held with Bob McDowell
 14 Telecommunications and IBM/ROLM." Do you recall
 15 that particular event?

16 A. No.

17 MR. RAYL: Object to the relevancy of
 18 that, but go ahead and answer it.
 19 A. I don't recall the specific event. I
 20 mean -- but we provided the document, but -- no, I
 21 don't recall the specific event or what I said at
 22 that time, but there was a high -- I experienced a
 23 high level of frustration throughout the early
 24 years of Teleservices.

25 Q. Okay.

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1 A. Len was an especially frustrating person.
2 Q. Okay. Staying at this point in time now,
3 in the 1988-1989 time period, I think you said
4 Warwick was started up in the '88 time period.
5 A. I believe so, yes.
6 Q. What was your relationship with or were
7 your responsibilities with regard to the startup
8 and the early phases of the Warwick operation?
9 A. Other than initially providing them
10 support and then working with Kathy Schoos, who was
11 in charge of it in Warwick, on a number of common
12 issues, I mean I had no direct responsibility, but
13 the two of us spent the best part of our life
14 trying to advance Teleservices at that time.
15 Q. She was your counterpart –
16 A. Yes.
17 Q. – in Warwick?
18 A. (Affirmative head nod).
19 Q. And to whom did she report during this
20 time period? This '88-'89 time period.
21 A. I believe it was John Abela, who was
22 Barbara's counterpart.
23 Q. Okay. During the '88 to '90 time period,
24 the period we are talking about, did you share –
25 I'm not quite sure what you were telling me, did

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1 you share calls with Warwick or were you simply
2 sharing knowledge and –
3 A. Knowledge and information and support,
4 yes.
5 Q. Were they also getting 800 numbers, calls,
6 or was that still going to Tulsa?
7 A. No. They started up and they were taking
8 the 800 number calls from their territory and their
9 part of the country.
10 Q. Okay. So their operation mirrored yours,
11 but just for a different part of the company?
12 A. Yes.
13 Q. Would there be occasions – we talked
14 about there being occasions where your CSRs would
15 route the calls perhaps to a specific property, the
16 P&C folks or a particular product line.
17 A. Yes. The corporate 800 number did not
18 happen in that time frame.
19 Q. The corporate 800 number was later?
20 A. Yes.
21 (A certain document was marked Deposition
22 Exhibit 2 for identification by the reporter.)
23 Q. (BY MR. POOR) Mr. Rayl, I am handing you
24 what has been marked as Deposition Exhibit No. 2.
25 I ask you to take a look at that document and tell

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1 me whether you recognize it?
2 A. I recognize it as probably one of the
3 reviews I received, yes.
4 Q. Okay. The second page, bottom left-hand
5 corner, do you recognize that as being your
6 signature?
7 A. Yes, I do.
8 Q. Okay. And it will appear you signed this
9 document February 4th, 1991?
10 A. Yes.
11 Q. Okay. During the course of your
12 employment with MetLife, you would receive a

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13 performance review typically on an annual basis?

14 A. Typically, yes.

15 Q. Okay. Typically given to you by your

16 direct -

17 A. Yes.

18 Q. - supervisor, correct?

19 A. (Affirmative head nod).

20 Q. And you, in turn, would do performance
21 reviews typically on an annual basis -

22 A. Yes.

23 Q. - of people reporting to you, correct?

24 A. Yes.

25 Q. So we are starting with the 1990, but you

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1 had performance reviews prior to 1990?

2 A. Yes.

3 Q. Okay. This happens to be one, and in the
4 bottom right-hand corner of the second page, you
5 recognize that is Ms. Gardner's signature?

6 A. Yes.

7 Q. Now, I know the forms changed from time to
8 time over the course of the period.

9 A. (Affirmative head nod).

10 Q. But during the period of time you reported
11 to Ms. Gardner, was there a certain process she
12 followed in terms of going through annual review

13 with you?

14 A. I can't really say it was a process; it
15 was done differently in different years.

16 Q. Okay. Well, let's talk about this one, -

17 A. Sure.

18 Q. - to the best you recall. The
19 handwriting that is on this document, other than
20 your signature, do you recognize that as Ms.

21 Gardner's handwriting?

22 A. Yes, it appears to be.

23 Q. Okay. Do you recall sitting down with her
24 and going over this review with her?

25 A. This specific one?

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1 Q. Yes.

2 A. No, I don't.

3 Q. Okay. Do you recall getting it -- let me
4 ask you the flip side.

5 Is it your recollection you simply got

6 this in the mail?

7 A. No, I would -- no, I would suspect that we
8 sat down, I just don't remember.

9 Q. You don't recall one way or the other?

10 A. No, no.

11 Q. Do you have any recollection as of the
12 year end 1990 what the size of the Teleservices
13 area was?14 A. I can't say with any certainty. At that
15 point, I assume it to have been in the neighborhood

16 of 40 to 50, but that could be wrong.

17 Q. Looking at the first page, "Overview of
18 Responsibilities," the first line, she's written --
19 and it would appear that this section is the key
20 responsibilities for 1990. The first one is
21 "Expand Teleservices throughout 1990" and then
22 there's "(GLHO & SEHO)."

23 A. Uh-huh.

24 Q. Do you know what those acronyms stand for?

25 A. Great Lakes Head Office and Southeastern

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1 Head Office. In other words, that would have been
2 two other territories that we would have been
3 expanding into.
4 Q. Okay. So at this point in time you are
5 now gaining geographic scope for the call center?

6 A. Trying to.
7 Q. I understand that's one of your goals is
8 to expand.

9 A. (Affirmative head nod).

10 Q. And that required expanding people and
11 getting enough staff to handle calls, et cetera,
12 correct?

13 A. Yes.

14 Q. Among others.

15 A. It's going to take days, if you want to go
16 through that whole process.

17 Q. I can assure you I don't want to go
18 through the whole process.

19 A. Okay.

20 Q. The Great Lakes and the Southeast, were
21 those the first geographic areas you started adding
22 to – "you" meaning MetLife – started adding to
23 the Tulsa call center?

24 A. I can't honestly say whether it was or
25 not. Western could have been in there and I don't

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1 remember the exact order in which we expanded.

2 Q. Okay. The second line is "Continue strong
3 customer satisfaction indices"?

4 A. Yes.

5 Q. I assume "SATIS" is "satisfaction."

6 A. (Affirmative head nod).

7 Q. And what was that measure? What is being
8 referred to there?

9 A. I can only assume that we had a number of
10 customer surveys in place over the years and that
11 they were in place at that time. I don't
12 specifically remember that, but that would have
13 been the only real indices that I would think that
14 she could refer to.

15 Q. The third responsibility being listed is
16 "Review expenditure levels for Teleservices and
17 reduce staff/line ratios." Now, I am talking about
18 responsibilities for the prior year.

19 A. Yes.

20 Q. Do you recall what that goal was as it
21 related to 1990?

22 A. No, I can't specifically say, other than
23 the staffing was a struggle for most of the time in
24 Teleservices. The company would never make a
25 commitment to delivering service that way.

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1 properly, anyway.

2 Q. Or, at least, you disagreed with the
3 company's decision as to the staffing levels in the
4 Tulsa call center. Is that a fair statement?

5 A. That's a fair statement.

6 Q. Okay. Do you know what was meant here by
7 "staff/line ratios"?

8 A. No, I don't. I mean – other than it may
9 have been a roundabout way trying to say to get
10 more call efficiency, but I don't know what she
11 meant at this point.

12 Q. Okay. Looking at page 2. The sections F

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13 and G refer to "Development Needs" and "Development
14 Plan/Actions."

15 A. Uh-huh.

16 Q. Drawing your attention to the section
17 entitled "Development Needs," the first point here
18 is "Separate business issues from
19 personal/emotional and subjective review. Jim can
20 tend to make things 'personal' concerns."
21 "personal" being in quotes.

22 Do you recall any conversation with Ms.
23 Gardner, either at this specific review or related
24 to this topic during this time period --
25 A. Sure.

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1 Q. -- on this particular issue?
2 A. (Affirmative head nod).
3 Q. What do you recall?
4 A. I don't remember any specific
5 conversations, but you have got the evidence of my
6 personal concerns as to the way the company was
7 dealing with many issues associated with customer
8 service. I was trying to live up to a mission and
9 a vision that was given to me by Robert Crimmins
10 and, as you have got in there, you have got the
11 documentation which outlines my concerns to him at
12 the time because of my continuing frustration with
13 the middle levels of the organization failing to
14 deal with the real issues. But I did make some of
15 them personal.

16 Q. Okay. Now, we had talked earlier about
17 the differing management styles you and Ms. Gardner
18 had.

19 A. Yes.

20 Q. Did you view this as reflecting the
21 differing management styles that you and Ms.
22 Gardner had?

23 A. It's -- yes, I reviewed -- I mean
24 that's -- and it's -- it clearly was a valid
25 developmental issue. I mean I did over the years
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1 team to deal more effectively with many of those
2 issues and not make them quite as personal and go
3 strictly on the basis of the business need or the
4 business issue. So, yes, it was a --

5 Q. Now, the second topic is "Trust your
6 teammates."

7 A. Uh-huh.

8 Q. "Management associates at all levels will
9 work with you. Share your agenda, ask for
10 support."

11 Do you have any recollection of what the
12 issues reflect in that developmental need were?

13 A. Not specifically, no.

14 Q. Okay. Now, under the "Developmental
15 Plan," Section G, it talks about a review in the

16 CLD area.

17 A. Yes.

18 Q. What is the "CLD" area?

19 A. I guess in '91 or thereabouts, in addition
20 to Teleservices, which I guess I had overlooked
21 before, I also assumed responsibility for what was
22 known as the cash loan dividend area. Because it
23 was such an integral part of many of the customer
24 concerns coming through Teleservicing, it was
25 thought that some improvements might be attained if

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- 1 I took responsibility for that area.
- 2 Q. And who talked to you about taking on
- 3 responsibility for that area?
- 4 A. That was Barbara.
- 5 Q. Okay. What was the CLD area?
- 6 A. It was part of the policyholder services
- 7 division. It stands for "cash, loan and dividend."
- 8 Q. What did they do?
- 9 A. Oh, they processed all cash surrenders,
- 10 all loan transactions and all dividend
- 11 transactions.
- 12 Q. And when you say this was an integral part
- 13 of customer concerns, people would call in saying
- 14 "can I take a loan, can I?" -
- 15 A. Fifty percent, or thereabouts, of the
- 16 phone calls in general dealt with some aspect of a
- 17 cash loan dividend area. Now, this doesn't mean
- 18 that they were the specific transactions, but in
- 19 terms of quoting values, asking questions about
- 20 their dividends, asking tax questions related to
- 21 these transactions.
- 22 Q. And the numbers in the processing of those
- 23 issues was in the CLD area?
- 24 A. Yes.
- 25 Q. Okay.

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- 1 A. And there was -- part of it was also to
- 2 move as much of those transactions to the telephone
- 3 to try and resolve them at that point, also.
- 4 Q. And so the goal, I take it, you and
- 5 Ms. Gardner had was by moving that function under
- 6 your supervision, there could be a closer
- 7 integration -
- 8 A. Yes.
- 9 Q. -- of those functions? Did that
- 10 integration in fact happen?
- 11 A. To a large degree, it did. At the time we
- 12 took it, it was very small. There -- as a result
- 13 of additional reorganizations, other offices were
- 14 closed. At the time I took it, the cash loan
- 15 dividend area had about 30 to 35 people. We took
- 16 work from other offices and it grew to about 120,
- 17 which I was managing in conjunction with the call
- 18 center. And it was eventually split off as a
- 19 separate division somewhere around '94 or '95.
- 20 Q. Did Warwick have the same type of
- 21 structure -
- 22 A. Yes.
- 23 Q. -- related to CLD?
- 24 A. Yes.
- 25 Q. Do you recall expressing any disagreement

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- 1 over the review for your performance in 1990?
- 2 A. I have expressed disagreement with a
- 3 number of my performance appraisals. As far as any
- 4 on this one, no, I do not recall expressing any
- 5 particular disagreement.
- 6 Q. Okay.
- 7 MR. POOR: Take about a two-minute break,
- 8 washroom break.
- 9 THE WITNESS: Great.
- 10 (Brief recess.)
- 11 (Certain documents were marked Deposition
- 12 Exhibits 3 and 4 for identification by the

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13 reporter.)

14 Q. (BY MR. POOR) Okay. Mr. Rayl, I have
 15 handed you a group of documents, which have been
 16 marked for purposes of identification as Deposition
 17 Exhibit No. 3, and there are a variety of documents
 18 relating to a situation surrounding an Esther
 19 Davis.

20 A. Yes.

21 Q. Now, I would like to start by talking
 22 about the first two pages of this group exhibit,
 23 which is a memorandum dated June 3rd, 1992.

24 A. Okay.

25 Q. Prepared by you.

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1 A. Yes.

2 Q. And I have, in fact, accurately
 3 characterized this. This is a two-page memorandum.

4 A. Yes.

5 Q. Okay. What was it that caused you to draft
 6 this particular memorandum, these two pages?

7 MR. RAYL: I object to the relevance.

8 You can go ahead and answer.

9 A. It was essentially as a result of being
 10 challenged on a non-selection of Esther Davis for a
 11 position in the call center for which there was the
 12 overwhelming sentiment of the people doing the
 13 interviewing and myself that she was not qualified
 14 for the position.

15 Q. (BY MR. POOR) The incidences, as I can
 16 tell by the documents, the incidences surrounding
 17 Miss Davis occurred in 19 — essentially 1991 time
 18 period. It would appear.

19 A. Yes.

20 Q. Okay.

21 A. We had a number of performance issues with
 22 Miss Davis.

23 Q. Right. And she was apparently selected in
 24 November-December of 1990, and you had performance
 25 problems with her in 1991. And then she was

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1 repositioned in the July of '91 time period, as
 2 best I can tell from the chronology.

3 A. Okay. I don't know without reading this
 4 entire file again and refreshing my memory, but —
 5 Q. Okay. Well, and my question is this, this
 6 is a memo now that you drafted about a year later,
 7 June — at least it is dated June of 1992. And my
 8 question really is why in June of 1992, what
 9 occasioned you to draft this particular memo in
 10 June of 1992, a year, thereabouts, after these
 11 events?

12 A. Well, there was a period of time when Ms.
 13 Gardner and I had a number of discussions or
 14 situations or whatever, in essence, where things
 15 were being challenged. I would venture to say,
 16 since I wanted it in my personnel file, that it was
 17 in some way related to some criticism I received
 18 from her, which during various periods of time she
 19 was prone to interject herself into areas that
 20 seemed to be a little extreme and inappropriate.

21 I —

22 Q. What do you mean? What do you mean by
 23 that, she would inject herself into areas that, I
 24 take it, you viewed as extreme?

25 A. She would involve herself in the
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1 day-to-day issues of Teleservices to a degree that
2 she was not doing in other areas. She was second
3 guessing some of the actions taken in that area to
4 the point where I at various times documented a
5 number of situations; I wrote to Vincent J.
6 Donnelly, who was a superior at times; I wrote to
7 Bob Crimmins, documenting that and outlining a
8 number of files an incidences; and at one point, I
9 would have to go through the files, I also had a
10 disagreement, and actually it was Mr. Lyons and
11 myself and occasioned Mr. Lynch to come out and
12 discuss that with us.

13 Q. Okay.

14 A. But it was just a bad period in history.

15 Q. Well, what was it about this incident,
16 this Miss Davis incident, that Ms. Gardner did that
17 you felt was inappropriate?

18 MR. RAYL: Again, I will object to this
19 line.

20 You may answer.

21 A. I can't say specifically here, but what
22 was happening was that -- and I would assume that
23 at some point or other Miss Davis went and spoke
24 with Ms. Gardner. Ms. Gardner was prone at the
25 time to listen to an employee's side of an issue,

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1 make a decision and take an action without
2 considering the full circumstances or the other
3 side of the position and requiring me or attempting
4 to require me to take actions that I felt were not
5 in the interest of the company or the call center.

6 Q. (BY MR. POOR) And that has been in your
7 first -- not your first sentence, but in the first
8 paragraph here in your cover memo, you are talking
9 about the operations officer, Ms. Gardner, correct?

10 A. Yes.

11 Q. "...exercise" -- and these are your
12 words -- "an unreasonable degree of interference
13 and control over the employee selection process."

14 A. Yes.

15 Q. I assume that's in general what you are
16 talking about here.

17 A. Typically, the only selection process that
18 the officer would become involved in is when it
19 dealt with a supervisory position or a management
20 position in the office, not when you are filling
21 the regular positions. And she interjected herself
22 into some of those issues at times.

23 Q. And I take it Esther Davis must have been
24 one of them?

25 A. Yes.

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1 Q. Okay. During this time period now, the
2 '90-'91 up to '92 time period, did you and Ms.
3 Gardner have discussions about that, your
4 perception that that is what she was doing?

5 A. I'm sure we did, but I don't recall the
6 specific discussions we might have had. I never
7 took actions behind somebody's back or whatever. I
8 pretty much said what I thought.

9 Q. And there were times when Ms. Gardner, I
10 presume, disagreed with your position.

11 A. Yes.

12 Q. Okay. Do I infer correctly that Miss

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13 Davis was one of those occasions?
 14 A. Yes.
 15 Q. Okay. Now, on page 2 of this cover memo,
 16 you talk about hand delivering "...all of this
 17 documentation...to an Officer of the Company."
 18 A. Yes.
 19 Q. Who was that officer of the company?
 20 A. Vincent J. Donnelly.
 21 Q. Okay. Now, what was his relationship to
 22 Ms. Gardner at that point in time?
 23 A. I can't – he's had a number of positions;
 24 I do not know whether she was reporting directly to
 25 him at the time or whether it was where

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1 Teleservices had a specific reporting relationship
 2 to him at the time.
 3 Q. Okay. Do you recall specifically on the
 4 initial selection of Esther Davis having
 5 conversations with Ms. Gardner about placing her in
 6 that position?

7 A. I don't remember the specific discussion
 8 or events other than what should be documented.

9 Q. Okay. Do you have any recollection of Ms.
 10 Gardner – I assume you did not want to select her
 11 for the position in the first place.

12 A. Again, I'm not sure, because you refreshed
 13 my memory, I think we did wind up – maybe we did
 14 wind up being forced to put her in the position,
 15 but, no, I would not have selected her for the
 16 position.

17 Q. Okay.

18 A. Nor would actually the person who did the
 19 interviewing of her.

20 Q. And I guess what I am really trying to get
 21 to is the core of the issue that you had with Ms.
 22 Gardner's supervisory or management style on this
 23 issue, and I gather that you felt she was injecting
 24 herself in decisions that were more appropriately
 25 made at the line –

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1 A. Yes.
 2 Q. – level. Do you have any recollection on
 3 this or other issues on that topic what Ms.
 4 Gardner's explanation to you was as to why she was
 5 involved at that level of the decisionmaking
 6 process?

7 A. No, I don't recall what her logic or her
 8 explanations were at the time.

9 Q. Okay.

10 A. But it was a situation we were able to
 11 work through and eventually get past.

12 (Certain documents were marked Deposition
 13 Exhibits 5 and 6 for identification by the
 14 reporter.)

15 Q. (BY MR. POOR) Okay. I have handed you a
 16 couple of sets of documents Mr. Rayl, Deposition
 17 Exhibit No. 5, what has been handed to you has been
 18 marked as Deposition Exhibit No. 5, is a copy, I
 19 believe, of your 1991 performance review; –

20 A. Yes.

21 Q. – is that correct?

22 A. Yes.

23 Q. And a group Exhibit No. 6, has been marked
 24 for purposes of identification as Deposition

25 Exhibit No. 6, are a number of documents produced

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1 to us. You can note that --
 2 A. Right.
 3 Q. -- the PL Bates number, --
 4 A. Right.
 5 Q. -- the PL-00951 --
 6 A. Right.
 7 Q. -- relating predominantly to that
 8 performance review. And let me start with what has
 9 been marked as Deposition Exhibit No. 5, which is
 10 your performance review for 1991.
 11 A. Uh-huh.
 12 Q. And in the bottom of the second page there
 13 is a comment, "Written response will follow. I
 14 register my disagreement with this assessment."
 15 And then that's your signature?
 16 A. Yes.
 17 Q. You wrote that comment and then signed it?
 18 A. Yes.
 19 Q. Okay. Now, the typed assessment or the
 20 typed information on this form was not placed on
 21 here by you, I take it.
 22 A. Right.
 23 Q. Either by Ms. Gardner herself or I presume
 24 at her direction.
 25 A. Yes.

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1 Q. Do you recall sitting down with Ms.
 2 Gardner and going over this review?
 3 A. Vaguely. I mean I remember --
 4 Q. You remembered that it happened?
 5 A. Yes.
 6 Q. But the precise content may not be --
 7 A. Yes.
 8 Q. All right. Your overall rating was
 9 generally effective.
 10 A. Yes.
 11 Q. I see on the first page, right?
 12 And then under "Development Needs," it
 13 talks about employee relations.
 14 A. Uh-huh.
 15 Q. Okay. Do you recall any particular
 16 conversation or input from Ms. Gardner in addition
 17 to what's on this document about her perception of
 18 your performance for 1991?
 19 A. No, other than I disagreed with her
 20 perception.
 21 Q. Okay. We can obviously go through these
 22 specific points --
 23 A. Sure.
 24 Q. -- that's written on this document, but
 25 other than what's, you know, talking about

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1 specifically what is written, do you recall
 2 anything she said or any additional input she had
 3 on these topics or others related to your
 4 performance?
 5 A. I don't remember the conversation, no.
 6 Q. Okay. When you wrote the note on the
 7 bottom of the second page, was that in her
 8 presence?
 9 A. Yes.
 10 Q. Okay. And do you recall expressing
 11 specific areas of disagreement with her at the
 12 time, or was it left that you would respond more

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13 fully later?
14 A. I'm sure she went through it. I took
15 exception to those things I would have taken
16 exception to, but I would – but I wasn't going to
17 try and attempt to get into a debate of them at
18 that time. I just decided, fine, I will respond to
19 her assessment, which I felt was grossly
20 inaccurate.

21 Q. Okay. Now, turning your attention to
22 Group Exhibit No. 6.
23 A. Yes.

24 Q. I don't see a date on your performance
25 review for 1991 and perhaps I just missed it or my
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1 copy is bad. Would it typically have been right
2 after the start of the – I'm sorry, I am still on
3 Exhibit 5.

4 A. Okay. No, it could have been anywhere
5 from January to May typically before she really got
6 around to sitting down and having that discussion.

7 Q. But sometime in the first quarter of '92?
8 A. First quarter to first half would be the
9 area. –

10 Q. Okay.

11 A. – but that's –

12 Q. So the first piece of paper on Deposition
13 Exhibit No. 6, which is a letter to Vincent
14 Donnelly from you, dated November 18th of 1991,
15 would have been prior to getting the performance
16 review for 1991?

17 A. If this was for 1991, yes, it would have
18 been. If we followed the normal chain of events; I
19 can't really –

20 Q. Okay. What was the purpose of writing
21 this memo to Mr. Donnelly?

22 A. I knew that Mr. Donnelly, one, most at
23 that time reported directly to Mr. Crimmins, and I
24 felt my only recourse in the company was to make
25 sure that there was some balance given, since

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1 Barbara could have acted as spokesperson to a large
2 part of the organization, I wanted to make sure
3 that they heard some of the other issues. And
4 Vince and Mr. Crimmins have been both extremely
5 supportive to me throughout my career.

6 Q. The issue in this particular document
7 deals with the reevaluation of your position and
8 the movement from a manager to a director.

9 A. That's part of it, yes.

10 Q. Okay. At least with regard to that

11 part, –

12 A. Yes.

13 Q. – the issue dealt with getting the title,
14 I take it, you say "Kathy," I presume that's Kathy
15 Schoes, –

16 A. Yes.

17 Q. – getting the title, but not getting any
18 promotional increase?

19 A. Yes.

20 Q. Okay. Had you had conversations with Ms.
21 Gardner prior to writing this memo about that
22 issue?

23 A. I don't know that for a fact, but that's
24 the only way I assume I would have found out I
25 wasn't getting the promotion – or getting an

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1 increase at all.
2 Q. Okay. You reference in your letter that
3 "I did not get any promotional increase" at the
4 time of the title change. "I was told that I would
5 get it on my salary review date, which is next
6 month," meaning, I take it, essentially year end
7 '91.

8 A. Right.

9 Q. "I am now told that because of the
10 restrictions concerning midpoints, I will not get a
11 promotional or merit increase."

12 A. Yes.

13 Q. Do you recall who told you that?

14 A. I can only assume it was Barbara, but I
15 don't -- I don't specifically remember.

16 Q. Okay. Now, was Mr. Donnelly in -- and I
17 wasn't quite sure what your answer -- where you
18 placed him in the chain above you at the time you
19 wrote this letter.

20 A. I am not -- I am not totally sure what his
21 responsibilities were at that time, but at varying
22 times we did have a reporting relationship to him.
23 He had confidence in my abilities and so he was
24 someone I knew that I could at least make aware of
25 the situation and by making him aware of it, I was

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1 also in effect making Mr. Crimmins aware of it.

2 Q. Did you and Mr. Donnelly have any
3 particular conversation on this, as a response to
4 this memo, that you recall?

5 A. Not that I recall, no.

6 Q. Did you tell Ms. Gardner that you were
7 writing this memo to Mr. Donnelly?

8 A. Probably not.

9 Q. Okay. And I take it from the "probably
10 not," you probably did not send her a copy of it?

11 A. No. If I did, I mean most of them I would
12 have been prone to put that I copied her, I mean I
13 did copy her on any number of ones that I did
14 write.

15 Q. And you would show, if that were the case,
16 your typical practice would be to show --

17 A. Yes.

18 Q. -- the person being copied?

19 A. But this was really a personal issue, and
20 I was -- one way to deal with it was to at least
21 let Vince know what was happening.

22 Q. Okay. Now, turn your attention to the
23 second page that's in this group of documents.

24 A. Okay.

25 Q. Which if that's in the same order that my

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1 set is in, no guarantee of that, of course, should
2 be a memo or a letter from you to Frank Lynch?
3 A. No. There's a -- what I have is another
4 one to Donnelly in 1992.

5 (Handed to counsel)

6 There you go.

7 Q. Let's try again.

8 A. Okay.

9 Q. Turn your attention to the second page,
10 which should be Bates numbered PL-00978.

11 A. Right.

12 Q. It is a letter you drafted to Frank Lynch?

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13 A. And this was in response to this
14 developmental review, obviously, in May.
15 Q. All right. So this is a letter you
16 drafted to Mr. Lynch in response to what has been
17 marked as Deposition Exhibit No. 5.

18 A. Yes.

19 Q. Now, where was Mr. Lynch in the
20 hierarchical chain at this point in time?

21 A. At that time, my recollection is that
22 Barbara reported to him, and he had responsibility
23 for the head offices at the time.

24 Q. Okay. And drawing your attention to page
25 8 of your letter, which is PL-00985, I notice you

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1 copied Mr. Crimmins.

2 A. Yes.

3 Q. Okay. And you signed and dated this May
4 31, 1992. I assume that's approximately when you
5 drafted it.

6 A. Sure, yes.

7 Q. Okay. Now, again did you tell Ms. Gardner
8 that you were communicating with Mr. Lynch on this
9 issue?

10 A. I do not recall specifically communicating
11 that with her. I mean like I said, we had our ups
12 and downs and this was obviously during a down
13 period.

14 Q. I don't want to go through everything in
15 this letter, but there are some specific issues I
16 want to understand. On the first page of the
17 letter to Mr. Lynch, in the second paragraph, you
18 note, "I view this rating" — referring now to the
19 generally effective rating — "as being in direct
20 retaliation for my prior memo to
21 Barbara...regarding my expression of concern for
22 the reduction of my STIC payment."

23 A. Yes.

24 Q. What are you referring to there?

25 A. That was the name for the company's
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1 incentive compensation program at the time.
2 Q. Okay. Tell me what had happened in that
3 respect, —

4 A. I don't —

5 Q. — the reduction of the STIC.

6 A. Other than the fact that she was obviously
7 giving me even less than I generated, I don't
8 remember the specifics.

9 Q. I take it that there had been some
10 reduction in your STIC was prior to, I take it, the
11 performance review that you got for 1991.

12 A. I assumed that that was the payment that I
13 would have received, and I don't know this, but I
14 would have received in the first quarter or
15 thereabouts of 1992 for 1991.

16 Q. Okay. And you say you had a prior memo
17 to her, disagreeing, using my words now and not
18 yours, —

19 A. Uh-huh.

20 Q. — reduction of payment. What were the
21 concerns you expressed to her about the reduction
22 of payment, other than obviously your disagreement?

23 A. Without the memo, I don't —

24 Q. You don't have any specific recollection?

25 A. No.

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1 Q. Okay. And what was it that led you to
 2 believe that the rating you got for the year 1991
 3 was in – quote – direct retaliation – close
 4 quote – for this prior memo?

5 A. That would have just been my perception at
 6 the time.

7 Q. Was there something that she said or did
 8 or –

9 A. It wasn't any single thing. There were a
 10 number of things or – the best way to describe it
 11 I guess is forces at work at that time that I felt
 12 that it was just – the entire situation and
 13 environment that I was working under.

14 Q. Well, you referred to later on in the same
 15 paragraph, "the continued harassment, mental and
 16 emotional abuse and periodic confrontations" –

17 A. Yes.

18 Q. – the last five years with Ms. Gardner.

19 Obviously, you referred you had up periods and down
 20 periods with Ms. Gardner. I presume from this memo
 21 that so far we are all on a down period here.

22 A. For the most part of it during then was; I
 23 mean that was one of the things that she was –
 24 during that period, unpredictably, you never knew
 25 what to expect.

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1 Q. What I am trying to understand and perhaps
 2 if you could give me an example. I mean what was
 3 she doing – let me rephrase it.

4 We have talked, for example, about your
 5 disagreement with her, tendency, at least your
 6 perception that she had a tendency to involve
 7 herself in decisions made at a level that should be
 8 left to –

9 A. Right.

10 Q. – you or your staff?

11 A. Right.

12 Q. We talked about that. One of the examples
 13 was this Esther Davis –

14 A. Yes.

15 Q. – situation. I know there were others,
 16 but that was one.

17 A. Yes.

18 Q. You talk, though, in this memo about a
 19 variety of –

20 A. Yes.

21 Q. – pejorative terms, harassment, mental
 22 and emotional abuse, these periodic
 23 confrontations. Can you help me by giving me an
 24 example of something that, to your mind, fell in
 25 that category?

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1 A. I'm – other than the fact that I have
 2 obviously commented on some of it in this memo,
 3 some of it in this eight-page memo to Frank, those
 4 specifics, to be honest, I, you know, that's
 5 history and I don't remember the specifics at this
 6 time; although, I'm sure it's well documented and
 7 was expressed.

8 Q. Well, let's move back to the Mr. Donnelly
 9 letter –

10 A. Okay.

11 Q. – which is the first page, –

12 A. Right.

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13 Q. -- where you say that there is something
14 in here -- I am now asking questions --

15 A. Well, --

16 Q. -- about what Ms. Gardner did that was
17 harassment? --

18 A. Okay.

19 Q. -- mental and emotional abuse --

20 A. This specific memo to him doesn't relate
21 to some of those things. There should be other
22 documents that do.

23 Q. Okay. That's fine. I am just trying to
24 understand.

25 A. Okay.

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1 Q. Okay. Well, you also indicate in this
2 letter in the next few pages that you felt she also
3 treated Mr. Lyons inappropriately.

4 A. Yes.

5 Q. I assume Mr. Lyons reported directly to
6 her as well.

7 A. Yes.

8 Q. Do you have a recollection of where he was
9 in the organization at that time?

10 A. I believe policyholder services, but I'm
11 not sure.

12 Q. Okay.

13 A. Mr. Lyons, I believe, sent his own
14 documents to Frank.

15 Q. Do you have any recollection of actions or
16 incidences involving Mr. Lyons that fall into this
17 category?

18 A. No, I don't remember any specifics.

19 Q. Turning to page 3 in the middle, the
20 paragraph starts "Barbara is a 'master
21 manipulator'..."

22 A. Yes.

23 Q. That paragraph, then it talks about her
24 trying to buy people's loyalty, manipulating
25 people. And you give an example of a former

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1 employee, Dick Moser, "Moser," --

2 A. Yes.

3 Q. -- something like that. Either with
4 regard to specifically with the Moser situation, if
5 that's the best example you can give me or with
6 another example you can give me, can you try to
7 help me understand what you are talking about in
8 terms of this description of her conduct?

9 A. Other than what I have said here, I
10 mean -- no, I could probably present any number of
11 people that could cite their own situations, but --

12 Q. Well, I am more interested, and I know,

13 Mr. Rayl, you know what you are --

14 A. Right.

15 Q. -- talking about here, but you need to
16 understand I don't; I wasn't there. So I need you
17 to help me, it would be helpful to me if you could
18 give me an example. And you can talk about the
19 Dick Moser situation, if you care to?

20 A. Yes, I don't even --

21 Q. Give me an example of what she was doing
22 that led you to describe her as, you know, buying
23 people's loyalty or being a master manipulator.

24 A. At this time Barbara's management style
25 was not such that if she wanted you to do something

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1 specifically, that she would just tell you this is
2 what she wanted you to do. She appeared at the
3 time to be dealing from her own agenda, and she
4 bestowed favor in the form of compensation or
5 whatever on people that were most prone to vocally
6 and actively support whatever it was that she
7 wanted to do.

8 Q. Well, give me an example of when you said
9 she had her own agenda. Give me an issue in which
10 that manifested itself.

11 A. I don't know of any really off the top of
12 my head, particularly at this time here. There
13 were - well, I don't remember any.

14 Q. I take it these would have been issues
15 that you and she disagreed on.

16 A. It may have been a number of issues,
17 anywhere from - relating to issues affecting the
18 customer service center, issues affecting - or
19 customers, issues affecting the work environment,
20 any number of things.

21 Q. But, as you sit here today, you can't give
22 me a specific example of any one of those things?

23 A. Not - you know, I tend - I am a
24 reasonably sensitive and as obviously has been
25 stated, somewhat emotional person, to the extent

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1 that I operate from a sense of passion. I
2 supported the company, and I supported its
3 customers with passion, with caring for the right
4 and wrong.

5 I was not interested in political agendas;
6 I was generally focused, as I believe my letters to
7 Crimmins and those people support, on issues that I
8 felt were important to the company, the customer.

9 The company, as a whole, gets itself
10 involved in any number of actions, directions or
11 whatever, where certainly some of these issues are
12 not the primary concern.

13 So those might have been the kinds of
14 issues with which I disagreed.

15 In other words - well, it's - we could
16 spend all day talking about that.

17 Q. Well, I don't want to spend all day
18 talking about it, but I also need to have a better
19 understanding of what you are talking about.

20 For example, we had talked earlier about
21 staffing levels.

22 A. Yes.

23 Q. And staffing levels are referred to in
24 your performance review for 1991.

25 A. Yes.

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1 Q. And, you know, growing a business and yet
2 what kind of resources is this company going to
3 develop to support that expansion.

4 A. Yes.

5 Q. And it seems clear from the documents you
6 turned over to us that you strongly disagreed with
7 that decision by the company in terms of the level
8 of resources they were devoting to the

9 Teleservicing area. Is that a fair statement?

10 A. But it was really a bigger issue than
11 that. It really revolved around the company on the

12 one hand paying lip service to the concept of

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13 providing good customer service while they lie your
 14 hands behind your back and then don't devote the
 15 resources or the strategic issues, technology,
 16 systems or whatever, to support that.

17 As a company, we still haven't decided
 18 where, when and how customer service should be
 19 delivered.

20 Q. It's not an easy set of issues, is it?
 21 A. It seemed pretty easy during many of those
 22 periods. It certainly surfaced in MetLife Express,
 23 although the fact -- but that's another whole set
 24 of issues. But it is pretty easy for any company
 25 to make a certain level of commitment to its

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1 customers. MetLife pays a lot of lip service and
 2 does not deliver it.
 3 Q. Well, one of the issues, and I understand
 4 in your view it is a broader issue, but let's focus
 5 on -- we are now talking in 1991, the staffing
 6 levels and the amount of resources the company was
 7 prepared to devote to the growth of the
 8 Teleservicing area.

9 There were many areas of MetLife in terms
 10 of its operations outside of Teleservicing area,
 11 correct?

12 A. Yes.

13 Q. Okay. There are thousands of employees
 14 who work for MetLife, correct?

15 A. Yes.

16 Q. There are many functional areas of
 17 MetLife, correct?

18 A. Yes.

19 Q. There are many areas within the company
 20 that need to be supported and funded for the
 21 overall success of the company, correct?

22 A. Yes.

23 Q. And Teleservicing certainly is one of
 24 those, correct?

25 A. Yes.

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1 Q. And at some level of the corporation,
 2 there has to be a business decision as to taking
 3 all of those pieces together, the varying levels of
 4 funding and support for those varied support
 5 functions, correct?

6 A. Yes.

7 Q. Okay. Now, you were in the Teleservicing
 8 function in Tulsa, --

9 A. Right.

10 Q. -- correct? And as you have described it,
 11 that was your passion, correct?

12 A. Yes.

13 Q. And there were disagreements, differing
 14 views on the amount of resources going to be
 15 devoted to the Teleservicing, correct, over the
 16 years?

17 A. Yes.

18 Q. Okay. And from time to time you disagreed
 19 with those decisions, correct?

20 A. I disagree with those positions -- or
 21 those decisions and my disagreement, one, while
 22 there were other functional parts of the company,
 23 it was individual life insurance that brought
 24 MetLife to its knees because of its sales
 25 practices. It's individual insurance that could

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1 not --
2 Q. Let me back up to the answer to my
3 question --
4 A. Okay.
5 Q. -- here for a second. Let's keep on track
6 here. Somewhere over you there is some very basic
7 resource decisions being made, where the company
8 resources were going, correct?

9 A. Yes.
10 Q. Okay. And you certainly had a belief that
11 that decision was not focusing enough resources on
12 the development of Teleservices, correct?

13 A. When we were blocking thousands of phone
14 calls that we couldn't even answer --

15 Q. I am simply asking whether you -- I am
16 not trying to get into who was right or who was
17 wrong, Mr. Rayl. You disagreed --

18 A. Yes, --

19 Q. -- to the Teleservices?

20 A. -- I did.

21 Q. And you viewed the Teleservicing area as
22 an extremely important function for MetLife,
23 correct?

24 A. Yes.

25 Q. Okay. And I take it from your answers
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1 that, you know, by virtue of the amount of
2 resources being developed in Teleservicing in this
3 area was also your perception that others somewhere
4 above you in the chain didn't view Teleservicing
5 with the same level of importance to the company's
6 mission that you did; is that fair?

7 A. Correct.

8 Q. Okay. And you expressed that disagreement
9 on a --

10 A. Repeatedly.

11 Q. Repeatedly. To Ms. Gardner, to others
12 within the organization, --

13 A. Yes.

14 Q. -- correct? Did it, looking at the
15 documents such as the one you wrote to Mr. --
16 what's the one Mr. Lynch, Mr. Lynch, that we were
17 talking about, and there are obviously others, --

18 A. Right.

19 Q. -- to Mr. Crimmins, Mr. Donnelly, --

20 A. Right.

21 Q. -- there were a variety of people within
22 the organization, many of whom are very critical of
23 your supervisor, Ms. Gardner. Let's stick with
24 those. Did it occur to you that writing those
25 memoranda, regardless of whether what you are

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1 saying in there was right or wrong, and going
2 around Ms. Gardner to others above her in the
3 hierarchy, was not the way most managers handled
4 those issues within the organization? I mean --
5 A. Absolutely. And that's why most companies
6 get in the condition they are in. If I had been
7 interested in my advancement, that was suicide.
8 Q. Okay. Did anyone ever sit down with you
9 and say, "You know, Jim, you really ought to sit
10 down and work these issues through with Barbara;
11 writing these memos to Vince, or Frank, or Bob or
12 whatever isn't going to be effective in

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13 accomplishing what you want to accomplish"? I
14 don't mean -- I am not giving you precise quotes,
15 but you understand the kind of conversation --

16 A. Yes.

17 Q. -- I am talking about.

18 A. And I think that occurred and Barbara and
19 I worked --

20 Q. Okay.

21 A. -- together the last few years.

22 Q. With whom? Who had that kind of
23 discussion, counseling, whatever you want to
24 describe it, with you?

25 A. In a discussion I had with Frank Lynch, it

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1 became apparent that nothing was going to be done.
2 By the same token, I think a discussion -- and this
3 is supposition on my part, but that Barbara reached
4 a point where she was at least willing to meet me
5 halfway, and from that point on we had an okay
6 working relationship.

7 Q. Okay. Let's move back to your letter to
8 Mr. Lynch so I can understand, particularly, page 4
9 is where I am now.

10 A. Okay.

11 Q. The paragraph that starts "One thing I did
12 decide..."

13 A. Uh-huh.

14 Q. I am taking this a little bit out of
15 context, this is in the context of your larger
16 discussion here about being taken out of the
17 divisional manager position. You say, "...and,
18 above all, 'The Man in the Glass.'"

19 A. Yes.

20 Q. What is that?

21 A. It's a poem.

22 Q. I am not a particularly literary fellow,

23 Mr. Ray.

24 A. It's an excellent poem.

25 Q. By whom?

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1 A. I don't remember the name, but it
2 basically says that's the person you have to
3 satisfy.

4 Q. If I could, you know, draw your attention
5 to page 5.

6 A. Okay.

7 Q. You have a number of bullet points here.

8 A. Uh-huh.

9 Q. Bullet Point No. 1 is "Attempts to
10 reposition me willingly/unwillingly."

11 A. Yes.

12 Q. What did you mean by that?

13 A. I was approached by Barbara and -- at
14 various times where she would ask me to consider to
15 be repositioned, and in 1987 there was an attempt
16 where I felt they were trying to do that to me
17 against my will and I wrote to the president and
18 that action ceased.

19 Q. What was happening in 1987?

20 A. I don't remember the exact circumstances,
21 other than I clearly perceived an attempt to take
22 me out of Teleservices.

23 Q. And this was slightly before Miss Gardner
24 took over the area?

25 A. No, I believe she was -- I would have

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1 to -- my recollection is that Barbara was -- I
2 think she must -- I don't remember exactly. I
3 thought she was there at that time with Mr.
4 Martin.
5 Q. And why did you believe that they wanted
6 to reposition you in 1997, or at the time, what did
7 you believe?

8 A. It was my perception at the time for
9 reasons I don't remember on that.
10 Q. I take it you and Ms. Gardner had very
11 different management styles. We have already
12 talked about that.

13 A. Yes.

14 Q. Is that your recollection of what was
15 going on or you just simply don't remember?

16 A. My -- Well, no, I don't, I don't really
17 remember in the 1987 time frame what I was thinking

18 at that time.

19 Q. Okay.

20 A. There were later discussions, but -- but I
21 never felt as threatened, I guess, as I did at that
22 point.

23 Q. Later discussions on repositioning you?

24 A. Yes.

25 Q. Okay. And that's what you are referring
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1 to in this letter?

2 A. Yes.

3 Q. Okay. When you say "discussions or
4 reposition," what do you mean by that?

5 A. That I was approached on a potential
6 position being created. At one time, and I can not
7 remember the time frame, but she was going to
8 create a position, in essence, it was a -- she was
9 going to put some budget stuff and things that I
10 had done before into that position and wanted me to

11 accept that position and get out of Teleservices.

12 Q. And you didn't agree to do that?

13 A. No, I didn't agree to do it.

14 Q. And she didn't --

15 A. Never.

16 Q. -- do that by force?

17 A. No, right.

18 Q. Okay. The next bullet point talks about
19 making your management job extremely difficult.

20 A. Yes.

21 Q. I think we talked a little bit about
22 this. This refers to your prior testimony, again
23 we talked about Esther Davis --

24 A. Yes.

25 Q. -- as being an example of Ms. Gardner
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1 being involved at entry level or -- I don't want to
2 say "low level," but lower level personnel
3 decisions.

4 A. Yes.

5 Q. That you felt should be left up to you
6 and/or your --

7 A. Yes.

8 Q. -- supervisory staff?

9 A. (Affirmative head nod).

10 Q. The next bullet point talks about
11 promoting unrest and dissatisfaction.

12 A. Yes.

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13 Q. To paraphrase it, it's a concern that, you
14 know, she encourages employees to come directly to
15 her as opposed to, I gather, working through you or
16 your supervisors. And you give an example of the
17 non-performing employee resigned prior to the date
18 of the PSP. Do you see that reference?

19 A. Yes.

20 Q. What is "PSP"?

21 A. That's what was then the weekly, it is now
22 biweekly employees' incentive payment. And
23 typically if they left they didn't get it.

24 Q. And who was the employee you are referring
25 to?

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1 A. I don't remember.

2 Q. What was the problem with the way this
3 particular situation was handled, that you recall?

4 A. As what I have said there is that the
5 employee went to Barbara. She had already
6 submitted a resignation, found out they were going
7 to miss getting their incentive payment and wanted
8 to extend their resignation date just long enough
9 to get the payment. I had refused it, the
10 supervisor had refused it. So they went to Barbara
11 and she was granted the extension.

12 Q. Okay. And you disagree with that?

13 A. Yes.

14 Q. Now, on page 6 you talk at the bottom of
15 the page, the last sentence is threatening you with
16 termination.

17 A. Yes.

18 Q. And under what circumstances – and I
19 assume again we are still talking about Ms.
20 Gardner, correct?

21 A. Yes.

22 Q. And under what circumstances did she
23 threaten you with termination?

24 A. I don't remember the specifics, but it was
25 in one conversation that she had with me.

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1 Q. Okay. Obviously, she didn't terminate
2 you?

3 A. No, she did not.

4 Q. Okay. In the bullet point above that, you
5 talk about "Frequent attempts to initiate and force
6 confrontational issues...."

7 A. Uh-huh.

8 Q. That's a "yes"?

9 A. Yes.

10 Q. Okay. Do you recall any specific examples
11 you are referring to there?

12 A. Not this far back, no, I don't.

13 Q. Did Mr. Lynch respond to you as a result
14 of this letter?

15 A. Yes, he – I believe this is the one he

16 responded to. He actually flew out to Tulsa and
17 met with both Mr. Lyons and myself to discuss our
18 issues.

19 Q. Okay. Did he meet with you together or
20 did he meet with you apart?

21 A. I really don't remember.

22 Q. Okay. What do you recall about that
23 meeting?

24 A. I recall having what I believe was
25 breakfast with him at the Warren Place Double Tree,
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1 where he basically expressed sympathy and concern,
2 but said essentially like it or lump it, there is
3 nothing he can do about it. But the situation got
4 better following that discussion.

5 Q. Did he give you any counsel, advice, in
6 terms of trying to work with Ms. Gardner?
7 A. I'm sure he did. I don't recall it
8 specifically, but I'm sure he did.

9 Q. Okay. You had known Mr. Lynch prior to --
10 A. He was one of our officers in charge; in
11 fact, he was the first one.

12 Q. And you had worked with him --

13 A. Yes, I had.

14 Q. -- over the years?

15 A. (Affirmative head nod).

16 Q. Did you consider Mr. Lynch to be a friend?
17 A. I would have to say not a good friend, but
18 certainly a little bit more than just a strict
19 working relationship, yes.

20 Q. In the course of this conversation, did he
21 provide you any advice in terms of, you know,
22 changes you ought to look at making in your
23 management style -- let me rephrase that.

24 You talked, for example, the two of you

25 began to meet halfway.

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1 A. Right.

2 Q. Okay. Obviously, that implies both of you
3 moving a little bit --

4 A. Yes.

5 Q. -- in terms of the way you dealt with one
6 another in your management styles.

7 A. Yes.

8 Q. Did Mr. Lynch in his conversations, in
9 this conversation with you, talk to you about, you
10 know, "Jim, maybe you ought to be a little more
11 flexible, maybe you ought to try to work with
12 Barbara" kind of counseling, words of that --

13 A. I don't specifically recall that, but I
14 suspect that was the case.

15 Q. And following this sort of set of
16 meetings, in fact, did you try to change your
17 management style, at least as it related to dealing
18 with Ms. Gardner to try to work in a little more

19 tandem with her?

20 A. Yes, I would -- I can't specifically tell
21 you the time frame. I'm assuming it was sometime
22 shortly following this, but, at least, we got on --
23 reached some level of understanding and on most of
24 the issues dealt with each other effectively. I --

25 I continued to wage or to be an advocate for what I

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1 believed to be the important company issues
2 associated with Teleservices, and I did a number of
3 things to promote that, but most of those were, at
4 least, with the acknowledgment, if not the outright
5 blessing and support of Barbara, but she in the
6 later years supported me well.

7 Q. And even in, I presume, in the later years
8 there would come a time when you and she would
9 disagree over a business issue. But in those
10 situations, I take it you and she were able to
11 handle those -- recognize that there might have
12 been two different decisions?

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13 A. Right. In other words, the difficulty
14 here was where she was directly involved in the
15 issues of Teleservicing and interjecting herself at
16 a level that I felt was inappropriate.
17 As far as disagreeing on a major business
18 issue or whatever, I mean there's lots of people I
19 disagree with, so that wasn't necessarily an issue
20 as long as she wasn't trying to make me do
21 something contrary to my fundamental values and
22 beliefs.

23 Q. Such as this Esther Davis thing?

24 A. Yes, right.

25 Q. Such as, you know, making you select
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1 people in the area --

2 A. Right.

3 Q. -- you didn't feel were qualified or --

4 A. Right.

5 Q. I understand.

6 MR. POOR: It's a good time for a lunch
7 break.

8 (The noon recess was here had.)

9 AFTERNOON SESSION

10 Wednesday, February 25, 1998

11 (A certain document was marked Deposition

12 Exhibit 7 for identification by the reporter.)

13 Q. (BY MR. POOR) Take a look at that.

14 A. Sure.

15 Q. Mr. Rayl, I am going to hand you two sets
16 of documents, both sets revolve around your 1992
17 performance review?

18 Deposition Exhibit No. 4 starts out with a
19 memorandum you wrote to Sharolyn Nance, who I think
20 during a portion of this time period was the
21 manager of Human Resources.

22 A. Yes.

23 Q. Right?

24 A. (Affirmative head nod).

25 Q. With regard to your performance appraisal,
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1 some documents you attached to that memo.
2 And Exhibit No. 7 has a cover memo to

3 Vince Donnelly with regard to your 1992 performance
4 review. And it appears to me from the attachment
5 that you had attached the same set of documents to

6 the memo of events that you had sent to Sharolyn.
7 That's going to be my first question, is whether
8 this series of documents were, in fact, enclosed in
9 the memo to Vince.

10 A. I assume they were.

11 Q. Okay. They were Bates stamped
12 consecutively --

13 A. Oh, okay.

14 Q. -- in the documents you produced to us,
15 so --

16 A. Yes, then that was part of my -- Then that
17 would have been part of my file that I would have
18 had to gather on that.

19 Q. Okay. Again in 1992, you were still
20 reporting to Barbara Gardner, --

21 A. Yes.

22 Q. -- correct? And again you had differences
23 of opinion with Ms. Gardner as it related to her
24 evaluation of your performance. Is that a fair
25 characterization?

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1 A. Yes, I think the issue was also, if I
2 remember, this one was, I was told the evaluation
3 was one thing and then it was formally changed to
4 something else.
5 Q. I think that was actually 1991.
6 A. Okay, it could be.
7 Q. You have got memoranda I could show you ~
8 A. Okay. That's fine, I'll take your word
9 for it.
10 Q. -- changing a B to a G, or a G to a V
11 or --
12 A. Right.
13 Q. -- something. Why was it that again in
14 1992 you felt compelled to communicate directly
15 with Mr. Donnelly on this issue?
16 A. I suppose to understand that fully, you
17 would have to understand the magnitude of what I
18 perceived as the management challenge I faced and
19 the accomplishments that were associated with
20 that. So that's --
21 Q. I think I am actually asking you a
22 different question, Mr. Rayl. I understand, I
23 either understand or it is not really relevant for
24 me to understand, --
25 A. Okay.

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1 Q. -- the fact that you felt that your
2 accomplishments and the management challenges you
3 faced were undervalued by Ms. Gardner and that you
4 disagreed with her ranking --
5 A. Right.
6 Q. -- and you laid out in some detail the
7 areas in which you disagreed. And I presume these
8 writings accurately reflect, at least as of the
9 time the issues you had with her ranking, correct?
10 A. Yes.
11 Q. I mean we could go through them --
12 A. Right.
13 Q. -- but unless you tell me differently, I
14 am going to work on the assumption that, for
15 example, in 1991, you wrote a very lengthy, what
16 appears to be a very thorough response to the
17 review, which I presume sets out as best you could
18 at the time the issues you had with her review.
19 A. Yes.
20 Q. Okay. The same for 1992, you set out
21 some --
22 A. Yes.
23 Q. -- very thorough, complete, appears to me
24 criticism of her review.
25 A. Yes.

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1 Q. And while we could go through in detail,
2 the documents speak for themselves.
3 A. Okay.
4 Q. So my question is actually a little bit
5 different, which is why involve Mr. Donnelly in
6 this process in 1992?
7 A. Basically, I had no real recourse outside
8 of Ms. Gardner. In other words, she was the one
9 solely responsible for the assessment and the
10 communications that went on, and I wanted the
11 company in some way, shape or form to have a formal
12 record of my position on it outside of the normal

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13 chain of command for my own self-protection.
 14 Q. What do you mean by that.
 15 "self-protection"? What did you expect to happen?
 16 A. Pardon?
 17 Q. You say for your self-protection; I
 18 don't --
 19 A. Because there were people in the company
 20 at higher levels who seemed to carry a much higher
 21 level of regard and respect for me at that time
 22 than I felt Ms. Gardner did, and I did not want to
 23 have to rely that she was presenting my performance
 24 at one level without my answering to those people
 25 and letting them know that I disagreed with that.

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1 Q. Let me work with that for a minute, Mr.
 2 Ray.
 3 A. Sure.
 4 Q. I know you understand what you are telling
 5 me, and I am, not having worked in that milieu, I
 6 am not a hundred percent certain. Some of the
 7 people you are corresponding with, Bob Crimmins,
 8 Vince Donnelly, et cetera, --
 9 A. Yes.
 10 Q. -- are very high in the MetLife
 11 Organization, --
 12 A. Yes.
 13 Q. -- correct? I mean we are now talking
 14 home office, very senior members of management --
 15 A. Yes.
 16 Q. -- in MetLife. Not the whole senior
 17 management team, but certainly a part of it.
 18 A. Yes.
 19 Q. People you had worked with off and on for
 20 most of your career, not worked with, or worked for
 21 or at various --
 22 A. Right.
 23 Q. -- points of time with or certainly had
 24 some relationship with for a long period of time,
 25 also correct?

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1 A. Yes.
 2 Q. Who I think you just told me had -- maybe
 3 saying they are supporters of yours is perhaps
 4 overstating it, but certainly to your perception,
 5 anyway, felt you were doing a good job or you felt
 6 you had a good relationship with. Is that what you
 7 are telling me?
 8 A. I'm telling you that it was also a form of
 9 a reality check to the extent that I could trust
 10 Bob Crimmins or I can trust Vince Donnelly that if
 11 I was way off base or if they felt I was totally
 12 wrong, that they would have immediately told me
 13 that and -- so to the extent that, one, I wanted
 14 them to know and, two, to the extent that if I -- I
 15 wanted them to know if I am headed in a direction
 16 here, if you feel that my actions, in terms of what
 17 I was trying to do in my position for the company,
 18 are inappropriate or not the direction you think
 19 the company and I should be going, then tell me
 20 that. And they never did. Or -- well, they never
 21 did.
 22 Q. Okay. Did any of those individuals -- let
 23 me rephrase that. You have already told me that in
 24 a conversation or two with Frank Lynch --
 25 A. Yes.

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1 Q. -- that there were conversations,
 2 counseling, discussions, whatever you want to
 3 characterize it, about the need to -- not that you
 4 were doing anything necessarily inappropriate,
 5 substantively, but that in terms of your dealing
 6 with your superior, that there needed to be
 7 something done to sort of mend those fences because
 8 she wasn't going away.

9 A. There was one discussion.

10 Q. Okay. There was one discussion only?

11 A. Yes.

12 Q. Where to paraphrase what you have told me,
 13 it was more a, you know, we need to work on our
 14 respective styles so the two of you can coexist and
 15 get along and move this operation forward.

16 A. Yes.

17 Q. Is that fair?

18 A. Yes.

19 Q. Okay. Apart from that one conversation,
 20 did Mr. Donnelly, or Mr. Lynch, or Mr. Crimmins or
 21 any of these higher level folks that sort of fall
 22 into this camp you were communicating with,
 23 communicate to you that what you were doing on a
 24 substantive basis in the call center was wrong or
 25 you were off base or was not what ought to be done

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1 for the company?

2 A. Okay. Are you asking me if they ever told
 3 me that they felt what I was doing was wrong?

4 Q. Yes.

5 A. Not to my recollection.

6 Q. Okay. In other than perhaps the way in
 7 which you were raising these issues, --

8 A. Yes.

9 Q. -- going around your superior, putting
 10 aside the style or the way with which --

11 A. Yes.

12 Q. -- you were dealing with this, did any of
 13 those individuals ever tell you that the fact that
 14 you were raising these issues was a problem or
 15 wrong or that you shouldn't be doing it?

16 A. Neither Mr. Donnelly nor Mr. Crimmins, to
 17 my recollection, ever told me that I should stop or
 18 not do it. As one of the memos to Bob indicates, I
 19 really tried, when he became the executive vice
 20 president, I tried very hard not to bother him
 21 unless I felt it was an issue of critical
 22 importance, and he never once reacted negatively to
 23 my memos or input.

24 Q. How about Mr. Lynch?

25 A. No, not to my recollection. I -- I don't
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1 remember ever -- him ever telling me "no." I
 2 mean -- no, I don't remember him ever telling me
 3 "no," I shouldn't do it.
 4 Q. Okay. Did Ms. Gardner ever talk to you
 5 about the fact that you were communicating
 6 criticism of her directly to her bosses?
 7 A. I don't have any specific recollection of
 8 that; Barbara and I had, you know, a number of
 9 discussions or conversations over the years and we
 10 were -- at least I was frank with her and sometimes
 11 she was pretty frank with me, but I don't -- I
 12 don't remember any specific discussion of that.

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13 Q. Okay. And to the extent you would have
14 provided her with copies of some of the documents
15 typically, I think I have asked you this before,
16 typically she would be shown on the document as
17 getting a copy, normally?

18 A. Generally. In some cases, I may have
19 asked that documents be put in my personnel file to
20 which she had access to if she wished to review
21 them.

22 Q. Whether she reviewed them or not, --
23 A. I don't know.

24 Q. -- you don't know? Okay. Now, during
25 this time period, this 1992-1991 period, there were
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1 some issues, I believe, with your staff in terms of
2 valid or not perceptions of the style of management
3 that was going on in that organization.

4 Do you have a recollection of that and of
5 Human Resources interviewing everyone?

6 A. Yes, I do.

7 Q. Okay. What do you recall about how that
8 issue arose? Again, we are talking I believe in
9 the spring of '92.

10 A. I don't really remember all the
11 circumstances, other than it was where some of what
12 I would have termed the marginal performers and the
13 dissatisfied employees found they got a sympathetic
14 ear from Barbara and met with her, which caused her
15 to embark, in my words, at that time and again this
16 is all history which we have put behind us, but, in
17 my opinion, it was a witch-hunt, and she had
18 Sharolyn Nance interview all the employees to which
19 I wholeheartedly supported her efforts to do that,
20 because Sharolyn was generally objective, and I
21 believe her memo outlines that -- the real problem
22 was with a handful of disgruntled employees.

23 Q. There is nothing wrong, I take it, from
24 your perception of Ms. Gardner's responsibility to
25 have the manager of Human Resources get involved
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1 and try to understand what was going on?
2 A. No, there's -- there was nothing wrong,
3 other than the fact that at the time I felt I was
4 being singled out and it was just part of the whole
5 environment at that time, but, you know, that was
6 just a -- it's something we both, I think, put
7 behind us.

8 Q. Well, during the period of time you were
9 manager of Human Resources, --

10 A. Yes.

11 Q. -- which was for about a three-year
12 period, --

13 A. Yes.

14 Q. -- in the mid-Eighties, did you view it as
15 one of your responsibilities if employees came
16 forward to say "I'm being mistreated" or
17 "improperly treated by management," to look at it
18 objectively and try to understand what's going on
19 and try to resolve it, one way or the other?

20 A. Absolutely, and -- but the responsibility
21 there was to not convict or accuse before I had the
22 facts and to go out and ascertain the facts and
23 find out what the management or supervisors did.

24 At that point I felt I was being convicted without

25 being able to even present my side of the issues or
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1 our side, because it was ~ a lot of it involved
 2 other people in the ~
 3 Q. Your direct report?
 4 A. Yes.
 5 Q. But, in fact, Ms. Nance did, in fact, talk
 6 to people ~
 7 A. Yes.
 8 Q. ~ investigated and come up with
 9 conclusions?
 10 A. Yes.

11 Q. So from the performance of her job, she
 12 did it the way ~
 13 A. I would have ~
 14 Q. ~ it should have been done?
 15 A. Yes.
 16 Q. The way you would have done it?
 17 A. Yes.
 18 Q. Okay. And so I am trying to understand
 19 why you felt you were being persecuted or
 20 mistreated at the time. I take it was not by Ms.
 21 Nance you felt ~

22 A. No, no.
 23 Q. And let me ask you exclusively, it was
 24 not ~ it was also, I take it, not by the fact that
 25 Ms. Nance was conducting this investigation?

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1 A. No.
 2 Q. I think you said you supported that.
 3 A. I welcomed it.
 4 Q. Okay. Help me understand what the problem
 5 was, then.

6 A. The problem was that at that time Ms.
 7 Gardner and I had a very poor working
 8 relationship. I think there was a low level of
 9 trust on both sides. I think my perception was she
 10 would have loved at that particular point in time
 11 to have gotten me out of the job, gotten me out of
 12 the company, for that matter.

13 I think after we went through that period
 14 and, particularly, as the call center and the
 15 Teleservicing operation began to get acclaim and
 16 notoriety, she realized that I was much more of an
 17 asset. I realized that she was much more of an
 18 asset to the extent that if we would just support
 19 each other, we could hopefully make more inroads
 20 than we were there.

21 I mean it was just a bad period in
 22 history. Her and I did not see eye to eye for that
 23 period of time. I ~ well ~

24 Q. On a whole bunch of issues, it would
 25 appear.

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1 A. Yes.
 2 Q. Okay. Did there come a point in time ~ I
 3 know, for example, by 1994 ~

4 A. Yes.
 5 Q. ~ her evaluations of you were very
 6 positive.
 7 A. Yes.
 8 Q. That she nominated you for certain
 9 excellence awards, ~
 10 A. Yes.
 11 Q. ~ et cetera?
 12 A. (Affirmative head nod).

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13 Q. So somewhere in this '93-'94 time period
14 you and she had a — I am not quite sure what the
15 term would be, but you somehow found a way to
16 accommodate one another, and I think, as you said,
17 work together to try to accomplish what maybe
18 neither of you completely wanted for the
19 organization, but it was a —

20 A. Yes.

21 Q. — common goal?

22 A. Yes.

23 Q. How did you do that? I mean did you and
24 she have sort of a meeting, you know, where
25 everybody bared their soul or did it evolve over

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1 time? Tell me how that happened.

2 A. My recollection is that if there has been
3 anyone who has ever been critical of my
4 performance, it's me. I — while I can stand up —
5 I mean — well, my whole experience as a manager
6 has been an evolutionary process that has gotten me
7 to where I am today as a person. And I think, like
8 I said, at one point when Teleservicing in Tulsa,
9 in particular, began to get notoriety and respect
10 in the company, which favorably or which reflected
11 favorably on Barbara, that she then, if you want to
12 say let up, eased up or whatever, and I at the same
13 time worked at really trying to understand, look,
14 you know — I mean this couldn't go on.

15 This was a bad period of time and I — it
16 was going to affect me very badly, just because it
17 was mentally and emotionally, and I have alluded to
18 that. Something had to give. She gave a little
19 bit, or maybe she gave a lot, and so did I. I mean
20 once — once things started evolving with the
21 Teleservicing operation, we both recognized that we
22 needed to work together better. But I don't recall
23 any specific sit-down or agreement. I think it
24 just sort of evolved.

25 Q. When you say you gave a little. One of
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1 the observations Ms. Gardner had made to you I
2 believe was in the 1990 performance review, was the
3 need to take things less personally.

4 A. Yes.

5 Q. And I don't want to mischaracterize your
6 testimony, but to, you know, understand there could
7 be business differences that you might not agree
8 with but not —

9 A. Yes.

10 Q. — to personalize it so much.

11 A. Yes.

12 Q. Did you find that in 1993, '94, as you and
13 Ms. Gardner reached an accommodation, you were able
14 to do that more to — to still have disagreements,
15 but not take them personally?

16 A. I think, if you really reviewed all of the
17 documents relative, I think, to what we were trying
18 to do in terms of advancing Teleservices and what
19 have you, over those period of years, you would see
20 that my whole approach and management style changed
21 with many people and many issues, to try and deal
22 more effectively with the business issues and set
23 my personality or personal issues aside, but win my
24 arguments solely on the basis of business issues.

25 Q. And by doing that, I take it that was one
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1 of the ways you were able to work more effectively

2 with Ms. Gardner.

3 A. Yes.

4 Q. Okay.

5 (A certain document was marked Deposition

6 Exhibit 8 for identification by the reporter.)

7 THE WITNESS: Okay.

8 Q. (BY MR. POOR) Now, Mr. Rayl, I have
9 handed you what has been marked for purposes of
10 identification as Deposition Exhibit No. 8. It is
11 a multipage document, for all I know, it is
12 multiple documents, that you produced to us with a
13 Bates numbers PL-02403 through PL-02419.

14 A. Right.

15 Q. Can you identify what this document is
16 and, perhaps, tell me what the Teleservicing
17 Strategic Planning Board is, was.

18 A. This was a period of time when I think
19 Vincent Donnelly had responsibility for
20 Teleservices, in spite of the fact -- and again it
21 was somewhat of a -- I believe at the time -- in
22 other words, for a period of time John Abela and
23 Barbara Gardner reported to him directly, and a
24 period of time, to my recollection he just kind of
25 oversaw some of the Teleservices stuff, I'm not

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1 sure exactly where it was at this point, but it may
2 have been when we all reported to Vince.

3 And there was a strategic planning board
4 which I believe was -- it was an extension of
5 meetings we formally held with the Wichita
6 programming staff, where it was more formalized, to
7 deal with the issues of advancing Teleservices in
8 the company.

9 Q. Can you give me a time frame? Many of
10 these documents are undated.

11 A. Oh, boy --

12 Q. What year are we talking about? I'm
13 assuming in the '92-'93 time period, but -- one of
14 the documents is dated May 1 of '93.

15 A. Well, that would have been somewhere in
16 there; I would have to go back and check. There's
17 April 15th, '93, so it was in that time period, I
18 would guess --

19 Q. Okay.

20 A. -- in 1993.

21 Q. Okay. And this board included Mr.
22 Donnelly, who our best recollection at the time had
23 responsibility for the area.

24 A. Yes.

25 Q. Mr. Abela and Ms. Gardner, who were the
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1 operations officers of Warwick --

2 A. Yes.

3 Q. -- and Tulsa. Who was Mr. Major? I know
4 it says "agency vice-president."

5 A. Yes. He was at one point the regional
6 manager or an agency vice president in Tulsa
7 responsible for some of our marketing operations.
8 I believe this was -- in fact, I'm pretty sure this
9 was after he left Tulsa and then was engaged in the
10 development of supporting some of the marketing
11 aspects of Teleservices, the sales, lead
12 generation. We worked with him and his

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13 organization to try to develop that.
14 Q. Okay. Marge Kelly was who?
15 A. She was an assistant vice president and
16 the best thing I can tell you is that she was on
17 the electronic systems side; I don't remember what
18 her - what her exact role was. Bob McDowell may
19 have reported to her, but I'm not sure.

20 Q. Who was Bob McDowell?
21 A. He was the director of the Wichita
22 computer center, in the programming staff that
23 supported most of the development side of
24 Teleservices' applications.

25 Q. Okay. Lucia Chez was who?

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1 A. Lucy was another person on the systems
2 side; she worked for - I think she worked for
3 Marge at that time. I think she had responsibility
4 for what was known as the client file at that time,
5 which was just an electronic system under

6 development and -

7 Q. Database kind of information, -

8 A. Yes.

9 Q. - kind of stuff?

10 A. (Affirmative head nod).

11 Q. And Tom McHale?

12 A. Tom McHale was, in essence - worked
13 directly for Vince; he was kind of a staff support
14 person or staff assistant.

15 Q. And then Kathy was your counterpart in
16 Warwick?

17 A. Yes.

18 Q. So this was a Teleservice planning board
19 in the IB area?

20 A. Yes. This was one valiant attempt by Mr.
21 Donnelly to actually further the whole
22 Teleservicing issue within the company.

23 Q. Okay. And do I take it from the way you
24 phrased that that it didn't succeed to the level -

25 A. No, it did not.

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1 Q. - certainly that you had hoped? Why not?
2 Or what was it about it that you viewed as being
3 not as successful as you had hoped? And it would
4 appear you are addressing a lot of different issues
5 here.

6 A. Oh, boy. It continued and right up on
7 through 1995-'96 to just get lost in all the
8 corporate issues and a lack of commitment from the
9 department from personal insurance to deal with
10 many of the customer service issues.

11 Q. When you say "deal with many of the
12 customer service issues," let me make sure I
13 understand what we are talking about. A number of
14 these things in here talk about or result in
15 needing to invest more money -

16 A. Uh-huh.

17 Q. - in, you know, expanding the queue -

18 A. Right.

19 Q. - or cutting down the call time, or
20 advertising the 800 number or -

21 A. Yes.

22 Q. - you know, spending money to generate
23 sales leads, et cetera, et cetera.

24 A. Yes.

25 Q. And I take it one of the issues and we
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1 talked about this before, was whether or not
2 personal business or whatever unit of the company
3 the money came from was prepared to spend the money
4 to do some of these things.
5 A. But I would prefer not to just couch it in
6 terms of money. The department would not make a
7 fundamental decision as to how it wanted to deliver
8 customer service to its customers.
9 Q. And who was – you say "the department."
10 Who were the people we are talking about now?
11 A. It would – it would be all the senior
12 officers of personal insurance at that time. You
13 had the systems issues; you had the marketing
14 organization; you had the administrative areas,
15 which, essentially, could not come to agreement on
16 those issues.

17 So I mean we are not a company where
18 typically one person at a senior level was capable
19 of just making a far reaching decision when there
20 was lots of disagreement underneath. They don't do
21 it, so –

22 Q. Okay. Now, are you giving me your
23 perception on just front results or were you part of
24 these meetings at that level with the personal
25 business or in the marketing side?

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1 A. I would say that over the years in dealing
2 with the various people associated with this effort
3 and attending various meetings with various
4 players, that is clearly my perception of the
5 situation, but I knew, for example, what some of
6 these issues were. For example, with respect to
7 the concerns in the marketing organization, the
8 lack of support from the systems side, just – it
9 was –

10 Q. "Lack of support from the systems side"
11 meaning the hardware-software –

12 A. Developing applications to support –
13 appropriate applications to support a Teleservicing
14 environment, because the basic commitment, if you
15 couldn't get the basic commitment to Teleservicing,
16 nobody is ever going to stick their neck out and
17 try and support long-range systems objectives.

18 Q. Okay. How long did this task force stay
19 in, planning board I guess is what it is referred
20 to, remain in existence?

21 A. This planning board or whatever, the
22 Teleservicing thing, has taken on many different
23 forms over the years. My best guess would be that
24 this one that was initiated by Vince was probably
25 in existence about a year or so, maybe longer,

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1 but – There were less formal meetings to address
2 these issues.

3 Q. Okay.

4 (A certain document was marked Deposition
5 Exhibit 9 for identification by the reporter.)

6 Q. (BY MR. POOR) I am handing you what has
7 been marked for purposes of identification as
8 Deposition Exhibit 9, ask you to take a look at
9 that document, tell me if you know what it is.

10 A. This was a document I think that I
11 prepared primarily at the request of Vince Donnelly
12 to put forward a, in essence, a strategic plan for

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13 Teleservices that could hopefully have been taken
14 forward and supported. And it was an outgrowth of
15 what -- with regard to here as the task force and
16 that's part of similar to this strategic planning
17 board, but --

18 Q. So when it says "the Customer Services
19 Task Force," it is something similar to, I take
20 it --

21 A. Yes.

22 Q. -- to the planning?

23 A. Yes. That would have involved Kathy
24 Schoos, the Warwick people, us, at least Bob
25 McDowell and his people, and it's -- I would

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1 venture to say that Jim Major was still involved at
2 this point, but there would have been a variety of
3 players.

4 Q. Okay. I mean I see a handwritten note on
5 here that is dated 9 -- September 17th of 1993.

6 A. Yes.

7 Q. Is that your recollection of about the
8 time period we are in now?

9 A. Yes, I have no reason to think it would be
10 anything different than that.

11 Q. Okay.

12 A. And, obviously, from Barbara's note it was
13 a discussion with Vince, so he was still involved
14 at that time.

15 Q. It says "Vince submitting to Bob for
16 Planning Board next week." "Bob" being Bob
17 Crimmins, probably?

18 A. Yes. And probably for his planning board,
19 which --

20 Q. Is it a planning board in the higher
21 level --

22 A. Yes.

23 Q. -- of the company or in a different
24 organization?

25 A. No, a higher level of the company would

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1 have been personal insurance.

2 Q. Okay. What feedback did you get
3 personally with regard to some of the issues in
4 here as to what the company was going to do, what
5 they were going to support or what they weren't
6 going to support?

7 A. To be honest, to this specific document, I
8 don't remember other than there was a period --
9 Vince was aggressively trying to further the cause,
10 but at some point following this he took on
11 different responsibilities. Frank Lynch came in as
12 the senior vice president of customer services and
13 just a lot of it never happened.

14 Q. Okay.

15 (A certain document was marked Deposition

16 Exhibit 10 for identification by the reporter.)

17 Q. (BY MR. POOR) I am handing you what has
18 been marked Deposition Exhibit 10 --

19 A. Yes.

20 Q. -- for the purposes of identification.

21 Ask you to take a look at that. I believe that to
22 be your annual performance review for 1994.

23 A. Yes.

24 Q. Okay. Signature in the bottom --

25 A. Yes.

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- 1 Q. — left-hand corner of the second page?
- 2 A. Yes.
- 3 Q. Barbara's next to yours.
- 4 A. Yes.
- 5 Q. And this one is a very positive
- 6 performance, correct?
- 7 A. Yes, it is, one of my shining moments.
- 8 Q. Okay. And by this point you and Barbara
- 9 had, as we have talked before, been able to come to
- 10 an accommodation in terms of how to work together
- 11 and to move the organization forward, as best could
- 12 be done?
- 13 A. Yes — no — yes.
- 14 Q. And this is not one of the performance
- 15 issues you had particular criticisms of?
- 16 A. No, I wasn't objecting to this one, no.
- 17 Q. I didn't find long memos criticizing this
- 18 one.
- 19 A. No.
- 20 Q. Okay. All right. Now, it was around this
- 21 time, and "this time" being January of 1995 —
- 22 A. Yes.
- 23 Q. — on this performance review, that
- 24 MetLife Express starting, —
- 25 A. Yes.

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- 1 Q. — going on?
- 2 A. Yes.
- 3 Q. Prior to January of '95 — and it was in
- 4 about this time period you were invited to join
- 5 MetLife Express?
- 6 A. Yes.
- 7 Q. Okay. Who first approached you with the
- 8 possibility of participating in that process?
- 9 A. The first notification or indication that
- 10 I had any possibility of being approached probably
- 11 occurred in December. There was — I was in Phase
- 12 2 of MetLife Express, there was a Phase 1, and that
- 13 was being conducted by people from MetLife and
- 14 Booz-Allen, and one of the principals from
- 15 Booz-Allen came out and looked at our call center
- 16 service, we sat down, we had a lengthy discussion
- 17 at which time we discussed the history and many of
- 18 the customer service issues and what have you, and
- 19 he personally indicated to me that at that time
- 20 that he would like to see me on MetLife Express.
- 21 Q. Okay. What was MetLife Express, your
- 22 understanding of it, in any event?
- 23 A. MetLife —
- 24 Q. At this time period, I am talking about,
- 25 Mr. Rayl, not when you ultimately got involved in

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- 1 New York.
- 2 A. All I knew at that time was that —
- 3 that — because I think John Jones explained it
- 4 that it was where the company was trying to do a
- 5 massive reengineering of its operations, and to
- 6 hopefully make it better.
- 7 Q. Who is John Jones?
- 8 A. He was the principal from Booz-Allen.
- 9 Q. Okay. He's the fellow you met with
- 10 sometime in '94?
- 11 A. Yes.
- 12 Q. Okay. And your understanding of Phase 1

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13 was a fairly small group consultants, top
 14 management, --
 15 A. Yes.
 16 Q. -- looking at some fundamentals of the
 17 business?
 18 A. Yes.
 19 Q. And that there was going to be a Phase 2
 20 involving a larger group --
 21 A. Yes.
 22 Q. -- of MetLife employees --
 23 A. Yes.
 24 Q. -- also looking at the business?
 25 A. Yes.

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 1 Q. At the time was it your understanding
 2 there would be a Phase 3?
 3 A. I really began to understand that in Phase
 4 2, yes.
 5 Q. Okay. All right. When were you first
 6 approached about participating in Phase 2? And I
 7 know Mr. Jones said he would like to see it
 8 evolve.
 9 A. No, my formal -- I was formally

10 approached, I would guess it was mid-January 1995.

11 Q. Who approached you?

12 A. William Friedewald.

13 Q. Is this on a personal level or --

14 A. I received a phone call from him.

15 Q. Okay. And was this the first contact you
 16 had had with anyone from MetLife about
 17 participating?

18 A. Yes, it was the first -- yes, to my
 19 recollection, it was the first contact that I had.

20 Q. Now, who was Mr. Friedewald at that time?

21 A. He was actually the senior medical officer
 22 of the company.

23 Q. Did you know him?

24 A. No, I did not.

25 Q. Had you ever met him before you got the
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 1 phone call from him?
 2 A. No, I had not.

3 Q. So what does he say to you and what do you

4 say to him in this phone call?

5 A. To the best of my recollection, he told me
 6 that I had been nominated to serve on MetLife
 7 Express, that it would require a commitment, that
 8 it would require that I relocate to New York City
 9 for a period of some months, and I'm not sure what
 10 else, but that I should let him know, and there was
 11 a relatively short time frame. I don't recall the
 12 exact circumstances, but I did have the opportunity
 13 within just a few days to go to New York and sit
 14 down with him and discuss it, and accept the
 15 position.

16 Q. At the time you got the phone call from
 17 Mr. Friedewald, did you have any knowledge as to
 18 what Phase 2 of MetLife Express was, what teams
 19 were being set up, what functions were being looked
 20 at in any detail?

21 A. Not in any definitive sense, other than
 22 the fact that I -- I mean I did know at the time
 23 that Mr. Friedewald was in charge of a customer
 24 service team, and that was the area that they
 25 were looking for, but I did not understand the

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1 scope and magnitude of what was happening at that
 2 time, only — only with respect to that issue.
 3 Q. Were there communications generally to
 4 employees of MetLife about MetLife Express's
 5 process, the goals of the company weren't doing
 6 it, —
 7 A. Most of that started after — after the
 8 kickoff of Phase 2.
 9 Q. Okay. So at that point in time, there had
 10 not been a lot of internal —
 11 A. No.
 12 Q. — publicity —
 13 A. No.
 14 Q. — in employee relations on it?
 15 A. (Negative head shake).
 16 Q. Okay. Had you known prior to Mr.
 17 Friedewald calling you that you had been nominated
 18 to participate in the customer service area?
 19 A. I don't think I did. I don't specifically
 20 remember. It's not inconceivable that Barbara had
 21 mentioned something to me that I was being
 22 considered. That almost seems like that may have
 23 happened, but I don't specifically remember it.
 24 Q. Okay. In this phone call from Mr.
 25 Friedewald, what did he explain to you he would be

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1 doing as part of — and I know you knew it would be
 2 the customer service piece, but what did he tell
 3 you you would be doing or the team would be doing
 4 or —
 5 A. I don't really remember much in the way of
 6 specific details, other than I think I understood
 7 that it was to examine how customer service was
 8 delivered throughout the company.
 9 Q. Okay. And then within a matter of a
 10 couple days?
 11 A. Days, within a week, I think, as I —
 12 Q. I presume he invited you in this phone
 13 conference, telephone —
 14 A. To let him know, yes. I don't remember
 15 exactly how it came about that I was going to New
 16 York, but I did make arrangements to stop by and
 17 visit him during that visit.
 18 Q. Okay. And had a more detailed
 19 conversation at that point about —
 20 A. Right.
 21 Q. — what you would be doing?
 22 A. It wasn't terribly detailed at that point,
 23 other than the fact that there — I think some
 24 preliminaries on the kickoff meeting and things
 25 like that that — I mean I accepted it pretty much

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1 without fully understanding, but I — what I was
 2 getting into.
 3 Q. Okay.
 4 (A certain document was marked Deposition
 5 Exhibit 11 for identification by the reporter.)
 6 Q. (BY MR. POOR) I am handing you what has
 7 been marked as Deposition Exhibit No. 11, which is
 8 a copy of a document produced to us marked
 9 PL-00436, ask you to take a look at that and if you
 10 could identify that document for me, please, sir.
 11 A. Since I did not know Bill, and when he
 12 approached me, I wrote this letter to him to make

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13 sure that he understood what he was getting.
14 Q. Okay. Before or after you went to New
15 York?
16 A. I believe this was before.
17 Q. Okay. Phone call, letter, New York?
18 A. That's my recollection, yes.
19 Q. Okay. Now, in this letter you referred to
20 an enclosed document, third paragraph. "Some of my
21 more recent frustration and criticism was captured
22 in the enclosed document."
23 A. Oh, okay, yes. That was my document on
24 what I felt -- I produced that document which you
25 have in terms of --

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1 Q. That's lots of documents. You are going
2 to have to be more specific than that, --
3 A. No, I will.
4 Q. -- because it wasn't attached to this.
5 A. Right. It is the one regarding what I
6 felt MetLife had to do in terms of -- I think it is
7 what systems and technology does it take to provide
8 world class customer service or whatever. There
9 was an introductory memo in there in which I voiced
10 some of my frustrations over the years with
11 customer service issues, and then there was a whole
12 lot of recommendations as to what I felt the
13 company needed to do, and I had circulated that
14 document throughout the company.
15 Q. Okay. Well, perhaps, as we go through
16 these documents we will find it, since I know there
17 have been a number of documents you have written
18 that sort of fit that description.
19 A. I actually thought maybe you even had a
20 bound copy of that one, but I'm not sure.
21 Q. I don't think I got anything that was
22 bound.
23 A. Okay. Well, it was in a notebook thing,
24 but maybe not. Maybe not.
25 Q. Well, we will find it at some point.

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1 A. Okay.
2 Q. If when you see it, if you would please
3 relate it back to this letter for me --
4 A. Sure.
5 Q. -- so I know what we are talking about.
6 Okay. Now, --
7 A. It has attached to it a cover letter that
8 I wrote to the president and a cover letter that I
9 also wrote to Mr. Crimmins in distributing the
10 document to them.
11 Q. Okay. And you attached that?
12 A. Yes, I did.
13 Q. Up to this point, you hadn't had any
14 contact with Mr. Friedewald?
15 A. No, I had not.
16 Q. And as chief medical director for MetLife,
17 I assume that you had no reason to believe he knew
18 who you were or -- that's an overstatement,
19 certainly he knew who you were or he wouldn't have
20 called you, but in terms of what role you played in
21 the organization or any of the detail about your
22 history at MetLife, he was in a different area of
23 the company?
24 A. He was in a totally different area, right.
25 Q. Okay. Did you and he discuss particularly

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1 the point you are making in this letter about being
 2 an aggressive and outspoken critic on various
 3 issues, having little tolerance for politics, et
 4 cetera?

5 A. There was a brief discussion of that when
 6 I met with him in New York. I really don't
 7 remember what he said, but he had indicated that,
 8 yes, he had, in essence, heard of me by reputation
 9 or whatever, which I assumed that perhaps he had
 10 had a conversation with Crimmins or somebody of
 11 that nature, which he didn't particularly take as
 12 negative, or I didn't take it as negative, I should
 13 say.

14 Q. Did you and he have any specific
 15 discussion about the kinds of issues you are
 16 referring to in this letter or was that sort of
 17 dealt with in your attachment?

18 A. The attachment generally was outlining
 19 some of my frustration on the company's failure to
 20 address customer service issues, but it was with a
 21 whole lot of recommendations. I don't recall
 22 specifically discussing it at that time. Over the
 23 course of Phase 2, he certainly heard a lot more
 24 about my frustrations on some of those issues that
 25 we felt the company was not addressing and he was

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1 very supportive.

2 Q. Okay. One of your concerns in writing
 3 this letter and talking to him was making sure he
 4 understood he was getting somebody who had been
 5 critical, who wasn't afraid to say what they
 6 thought and be aggressive on the things that they
 7 thought were right for this particular function.

8 A. Yes, I wanted him to understand that if he
 9 wanted somebody to rubber stamp or whatever -- some
 10 process, I was not going to do that. I mean if
 11 they came to the conclusions I could support them,
 12 I would support them, and I did.

13 Q. And if they came to the conclusions you
 14 didn't support, --

15 A. I -- and I wrote to him on a number of
 16 those issues, too.

17 Q. Okay. Did you feel that he understood
 18 that the point you were trying to make here through
 19 the letter?

20 A. Yes, -- it was an interesting experience.
 21 I mean my first reaction was the senior medical
 22 officer in customer service, but as he led that
 23 team, it was interesting because he had none of the
 24 other biases or none of the other history or none
 25 of the other -- and he tended to look at things

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1 reasonably, objectively, and when you had an
 2 opinion, he would challenge it and support it.

3 Q. How long did you work on Phase 2 of
 4 MetLife Express?

5 A. From the first part of February until June
 6 of 1995, June 30th, I think it was --

7 Q. Okay. We will call it --

8 A. -- since I left.

9 Q. We will call it five months?

10 A. Five months, yes.

11 Q. Okay. And that was taking place in New
 12 York?

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13 A. And traveling to various locations --
 14 Q. Okay.
 15 A. -- all over the company.
 16 Q. You did some site visits?
 17 A. Yes.
 18 Q. You went to Aurora, et cetera?
 19 A. (Affirmative head nod).
 20 Q. And there were a variety of teams, --
 21 A. Yes.
 22 Q. -- functional teams in MetLife Express?
 23 A. Yes.
 24 Q. You were on the customer service team?
 25 A. Yes.

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1 Q. How many people -- and that was led by Dr.
 2 Friedewald?
 3 A. Yes.
 4 Q. How many people were on that team?
 5 A. I have the exact number someplace, it was
 6 somewhere in the neighborhood of 20, I think, of
 7 which about 13, 14 were Met employees; the rest
 8 were Booz-Allen people, and I think that number
 9 even grew to more than that by the end of it.
 10 Q. Okay. But in terms of the Met employees,
 11 what areas of the company did they come from?
 12 A. They came pretty much from all over. We
 13 had Tony Gallo who came from Property and
 14 Casualty. We had -- geez, I can't think of his
 15 name, another guy that came from Group P&C, we had
 16 Rich Anderson who came -- at that time he was in
 17 Facilities & Services, but who had a strong
 18 background in individual life insurance
 19 administration. We had Norma Rossi and Mary
 20 LoSardo, who came out of a lot of the research
 21 areas. We had Polly Wittenberg, who came out of
 22 the Consumer Relations area and held some other
 23 positions around the company.
 24 I think the other guys, there was Mark
 25 George, I think was his name, came from Pensions.

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1 Kathy Henkle, who came from Pensions, Human
 2 Resources. So there was quite a mix.
 3 Q. Okay. And the process was, I presume, a
 4 series of joint meetings, some specific
 5 responsibilities assigned with some of you,
 6 including you, went to the field, I presume there
 7 were smaller projects, it was a deliberative
 8 evolutionary process over this five months?
 9 A. Yes, there was an evolutionary process
 10 which wound up in the customer service team being
 11 broken up into sub-teams, and the only person I
 12 failed to mention was Ralph Jeffrey.
 13 And Ralph and I were the two Met
 14 employees responsible for looking at the call
 15 center operations around the company, with Gail
 16 Benson from Booz-Allen.
 17 And then the other teams looked at a
 18 variety of things, billing, work flow and other
 19 customer service-related processes.
 20 Q. So the customer service team was looking
 21 at sort of all of those elements of Met that
 22 interfaced with the policyholder, --
 23 A. Yes, --
 24 Q. -- customer?
 25 A. Yes.

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1 Q. Not just the person on the end of the
2 phone but the person cutting the checks, —
3 A. Yes.
4 Q. — and the people processing the
5 paperwork, —
6 A. Yes.
7 Q. — and sort of all the back office stuff
8 that affected how customers perceived and handled
9 with MetLife?
10 A. A good portion of it, yes.
11 Q. Okay. How quickly did it break up into
12 sub-teams?
13 A. I would guess that was probably six weeks
14 to two months into the process.
15 Q. Was the June 30th date a date set at the
16 beginning of the process? I mean was that the date
17 you were shooting for or did it just happen to be
18 that's when you were done?
19 A. Actually, there was a date prior to that
20 that if it was not set at the very beginning, it
21 was set fairly close; in other words, they had a
22 specific time frame Met made out or set out as to
23 when we would report findings to the CMO with the
24 final report, I believe that was due in June of
25 '95.

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1 Q. Okay. When you say you and Mr. Jeffrey
2 had the responsibility for the call center
3 organization, —
4 A. Yes.
5 Q. — you are just evaluating it. We are in
6 a point of time in history now where you got the 22
7 I believe is the number you gave me, call
8 centers, —
9 A. Yes.
10 Q. — various product lines of a call center,
11 there is Warwick, there is Tulsa, —
12 A. Right.
13 Q. — stuff scattered all over the place,
14 right?
15 A. Yes.
16 Q. Now, where did Mr. Jeffrey come from?
17 A. He came from, to the best of my knowledge,
18 he was a vice-president in the group department and
19 as part of their quality organization. I don't
20 know their organizational structure, so I don't
21 know whether that is called Human Resources or
22 something special.
23 Q. Okay. Had you worked with Mr. Jeffrey
24 before?
25 A. No, I had not.

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1 Q. Okay. Just describe for me, please, the
2 process you and Mr. Jeffrey went through to gather
3 information and to make — I assume your job was to
4 make recommendations back to the whole team in
5 terms of the call center organization.
6 A. It wasn't quite so much to the team as
7 much as it was — although each team reported back,
8 but everybody was kind of doing their own thing.
9 There was a process, it was led by
10 Booz-Allen, who attempted to a large degree to tell
11 us what we should — what types of information we
12 should be looking for and what have you. A major

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13 portion of my time was spent on educating all the
14 team members on many of the call center issues.
15 so --

16 Q. Okay.

17 A. Getting them to ask the right questions.

18 Q. Okay.

19 MR. POOR: Why don't we take a break.

20 THE WITNESS: Okay.

21 (Brief recess.)

22 (Certain documents were marked Deposition

23 Exhibits 12 through 25, inclusive, for

24 Identification by the reporter.)

25 Q. (BY MR. POOR) Now, Mr. Ray, I am going
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1 to hand you what has been marked for purposes of
2 identification as Deposition Exhibit No. 12.

3 A. Yes.

4 Q. Tell me if you can identify that document.

5 A. Yes. This is the document that I prepared
6 in late 1994 as part of my, once again, effort to
7 get attention focused on what I believed to be the
8 customer service and the technology issues that the
9 company needed to address.

10 Q. This is the document that you enclosed
11 with your letter to Mr. Friedewald?

12 A. Yes, it is.

13 Q. Did you and he ever go over this document?

14 A. I don't recall specifically going through
15 that document with him. We went over many of the
16 things in it as a part of the MetLife Express

17 effort, but --

18 Q. Now, I put in front of you a stack of
19 documents here, --

20 A. Yes.

21 Q. -- all documents which were produced to us
22 I think relatively in the order in which they

23 actually were produced to us.

24 A. Okay.

25 Q. And what I would ask you to do is look at

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1 those documents, if you could just tell me one by
2 one, identify for me what they are and they are all
3 in files that you had marked or your counsel had
4 marked as having something to do with MetLife
5 Express.

6 A. Okay.

7 Q. And what I would ask is -- I don't
8 necessarily need to go through the substance of the
9 documents themselves, but I would like to
10 understand what they are, you know, who played a
11 part in authoring them and where they fell in the
12 deliberative process of MetLife Express.

13 A. This first document on institutional
14 customers, I wrote directly to Mr. Friedewald as
15 the team leader of the customer service team

16 because --

17 Q. Tell me when you -- it is Deposition
18 Exhibit No. 13.

19 A. Okay, 13, I think. And it is June 7th,
20 1995.

21 Q. So this is towards the end of the --

22 A. It is towards the end and there were some
23 concerns being expressed by some of the CMO members
24 as to how the call centers might deal with their
25 institutional customers, and I was trying to

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1 document and educate Dr. Friedewald as to some of
2 the things that could be used to satisfy those
3 concerns.
4 Q. Okay.
5 A. The next one, --
6 Q. Which is No. 14.
7 A. -- which is No. 14, is another document
8 because of -- I did not feel that -- well, I felt
9 that the overall systems issues associated with all
10 of the customer service and across the organization
11 were being seriously underestimated as to their
12 significance and their cost by the so-called
13 information technology team that was the one
14 responsible for doing this, and I was trying to
15 educate Dr. Friedewald on what I saw some of those
16 issues were and what I saw, based on the
17 observations of the site visits we made and -- to
18 try and give him some idea as to what the
19 technology -- level of technology really was that
20 was out there.

21 Q. When was this document prepared?
22 A. This is April 19th, 1995.
23 Q. It was sort of midway through the process?
24 A. Yes.

25 Q. Who was on the IT team?

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1 A. It was led by -- I am not sure who it was
2 led by, there was a whole separate team. They were
3 not part of the customer service team. It was
4 another whole MetLife Express team that was
5 functioning independently from us.

6 Q. Okay. Now, No. 15, a series of documents
7 addressed to Mr. Friedewald by you, May 16th of
8 '95, with a bunch of attachments.

9 A. Yes. One of the critical issues that
10 consensus could not be agreed upon was again how
11 was individual business going to deliver service to
12 its customers and what role should the sales
13 offices play in that activity. This was --

14 Q. What do you mean by that?

15 A. There has been in the company a culture
16 that makes -- that managing officers believe that
17 all customer service should be provided by the life
18 insurance representative or by the local sales
19 office. The reality is the sales offices are
20 ill-equipped to do that. There is such turnover
21 and now the reduction in the size of the sales
22 force, it isn't a practical option.

23 But the company has never taken a
24 position that Teleservicing or anything else should
25 be the primary source for customer service with

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1 developing a system than to support any other
2 alternatives.

3 Part of what I did in MetLife Express was
4 to do an extensive analysis of sales office
5 transactions, also trying to illustrate that the
6 service delivered by our sales offices merely as a
7 matter of process was inferior to what could be
8 delivered through Teleservicing, and that it might
9 make more sense to define sales office role as
10 being that of sales support.

11 And then there is just a ton of documents
12 in here related to that.

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13 Q. Okay.
14 A. And other miscellaneous MetLife Express
15 documents that I authored or put together.
16 Q. Okay. Deposition Exhibit No. 16 is also a
17 MetLife Express document, Teleservicing Training
18 Sub-Team.
19 A. Yes.
20 Q. And this happens to be dated, would it
21 appear to me, January of '96.
22 A. That's correct. This is a Phase 3
23 document.
24 Q. All right.
25 A. I was formally charged in Phase 3 at
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1 determining what the training needs or some kind of
2 a plan for the call centers as they did that.
3 There was myself and Elizabeth Marr were the
4 members of that team. We went around and made a
5 number of site visits, and based on the information
6 that she provided and the information I gathered
7 myself, I authored this document as the final
8 report.

9 Q. Okay. Deposition Exhibit No. 17 is what?
10 A. These are just various - copies of the
11 various correspondence that I had to - or that I
12 submitted. In other words, -
13 Q. In what part?
14 A. Okay. I think these are very much August
15 14th, 1996, August 9th, 1996, June '96. This was
16 really - May 29th. This was in the latter days of
17 prior to the site leader selection and there was
18 still a Phase 3 MetLife Express team and there were
19 still - most of these people that these are
20 addressed to were Booz-Allen people, but it was
21 information being requested or whatever having to
22 do with the transition, having to do with - well,
23 mostly the transition and things related to the
24 expansion of the four call center sites.
25 Q. No. 18.

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1 A. This is all various documents produced as
2 a part of MetLife Express. This happens to be part
3 of the work transition plan. I would guess some of
4 these others may have been pulled out from
5 different dates, but this is in July 1st, 1996.
6 But these are things, in essence, prepared by
7 Booz-Allen as part of the formal reports on MetLife
8 Express.

9 Q. Okay. So most of those are not prepared
10 by you, -

11 A. No.

12 Q. - they are prepared by Booz-Allen?

13 A. No, virtually none of these are prepared
14 by me.

15 Q. Okay. Exhibit 19?

16 A. Exhibit 19, there was a separate analysis
17 done, and this is part - in fact, I would suspect
18 that this may be duplicated in here, yes. There
19 was - In assessing the - this is
20 customer-related. In assessing or attempting to
21 evaluate what the volume of the phone calls might
22 be that would be received by the call centers,
23 there was a whole issue of how many calls would
24 be - were currently being received in the sales
25 offices related to customer service.

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1 This was a document that I produced as
2 part of an analysis; some of the information came
3 from some information gathered by Jim Major or a
4 survey that he did, but most of this was stuff that
5 I put together to try and estimate how many phone
6 calls were coming from the sales offices -- or the
7 sales offices were receiving.

8 Q. Okay. Exhibit 20 appears to be documents
9 relating to your visits to various sites, Aurora,
10 et cetera.

11 A. Yes. This was -- I ended up doing the
12 most extensive documentation on site visits, and
13 this was just a record of all of our site visits
14 during Phase 2.

15 Q. Okay. Exhibit 21 appears to be a document
16 you prepared for Mr. Jeffrey in January of '96.

17 A. Yes. This was a rather elaborate and
18 extensive document. With the four call centers,
19 there would be need -- there was a need for a
20 telecommunications traffic management center. And
21 this is a document I prepared with some information
22 and help from my telecommunications people on what
23 needed to be considered and what they needed to do
24 to set up that traffic management center.

25 Q. Okay. Exhibit 22?

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1 A. This appears to be a wide assortment of
2 the letters and documents I wrote trying to advance
3 the customer service and call center issues.

4 Q. All as part of MetLife Express?

5 A. No, this had nothing to do with MetLife
6 Express. June '95, that -- I sent Mr. Crimmins the
7 sales office information, here's March of 1996,
8 yes, these were for the most part independent of
9 MetLife Express. Some of these go back to 1988.

10 Q. Okay. Then Exhibits 23, 24 and 25, they
11 appear to be some of the summary presentation
12 documents on MetLife Express as it relates to the
13 call center organization.

14 A. Yes. These two were done by Booz-Allen.
15 This is based on what I wrote and what I prepared
16 to the company's corporate management office --

17 Q. Okay.

18 A. -- at the conclusion of Phase 2.

19 Q. All right. Now, let's talk about some of
20 the basic conclusions as it relates to the call
21 center in terms of the reengineering and
22 restructuring.

23 One of the fundamental decisions of the
24 customer service team was consolidate the number of
25 calls, correct?

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1 A. Yes.

2 Q. Going from 22-some-odd calls centers down
3 to four.

4 A. Yes.

5 Q. Okay. And consolidating the
6 responsibilities that were going to be handled by
7 the call center organization in those four center,
8 correct?

9 A. Yes.

10 Q. Now, what is a virtual call center? What
11 does that mean to you?

12 A. A virtual call center is essentially that

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13 you could have the four sites function from -- from
14 the customer as a single call center, that you
15 could capitalize on your resources in all of the
16 call centers to make certain that calls were pooled
17 and calls were answered in the most effective and
18 efficient manner possible.

19 Q. And was that one of the conclusions of the
20 customer service team --

21 A. Yes.

22 Q. Is that what ought to be done?

23 A. Yes, it was.

24 Q. Okay. That was a change in the way the
25 call centers had operated up to that point,

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1 correct?

2 A. "Yes" and "no." Prior to MetLife Express,
3 individual insurance was already engaged in trying
4 to make their two call centers a virtual call
5 center. I had given presentations to Frank Lynch
6 in New York and his planning board on the need to
7 do that and the technology that was going to be
8 required to do that. But the intent was that
9 Warwick and Tulsa would function as its own virtual
10 call center.

11 Q. And then you had all these others out
12 there that were operating rather autonomously?

13 A. At that point, this was prior to MetLife
14 Express, yes.

15 Q. And even prior to MetLife Express,
16 although Tulsa and Warwick shared responsibilities,
17 they still were fairly autonomous call centers,

18 correct?

19 A. Yes.

20 Q. Okay.

21 A. We did transfer traffic back and forth on
22 occasion.

23 Q. But a virtual call center means more than
24 just transferring traffic?

25 A. Yes, it does.

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1 Q. Okay. It means far more in terms of the
2 integration of the operations, both certainly to
3 the customer as well as internally, it means a
4 closer knit between the call centers?

5 A. It is mostly a technology issue. I --
6 with respect to the management, if the proper
7 technological tools are put in place, it really
8 does not impact the direct day-to-day management
9 assuming your calls are forecasted right and the
10 technology is there. All it means is that to the
11 customer, if you can answer the call faster, even
12 though it may have been originally headed for
13 Tulsa, if it can be answered faster in Warwick, it
14 would go to Warwick and be answered.

15 Q. So from your view, it was predominantly a
16 technological issue?

17 A. With respect to the virtual aspect, yes.

18 Q. That's what I am talking about.

19 A. There are a whole host of
20 management-related issues, which should exist,
21 whether they are virtual or not. In other words,
22 in terms of your consistency of policies,
23 consistency of management, consistency with respect
24 to how customers are going to be treated, what
25 transactions you are going to do, but they are not

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1 really a problem -- they become more of an issue
 2 with the virtual call center, but there are issues,
 3 whether it is virtual or not.
 4 Q. Okay. The fundamental recommendation to
 5 go to four sites or to consolidate down to a
 6 smaller number, whether it was four, or five or
 7 three, I take it, it was a recommendation you
 8 supported?

9 A. No, it wasn't.

10 Q. Why not?

11 A. When Ralph Jeffrey left -- there was
 12 originally supposed to be five and then two weeks
 13 prior to the formal announcement, one of them was
 14 knocked out. When Ralph Jeffrey left, I sent a
 15 memo to Bill Friedewald telling him that I thought
 16 four sites because of the mix and because of some
 17 of the issues there, they were making very, very
 18 difficult management challenges and that I
 19 recommended to him that they really go to six, and
 20 I gave him the sites and what I felt ought to be in
 21 them.

22 Q. Okay. Let me understand the processes.

23 At the conclusion of Phase 2 --

24 A. Yes.

25 Q. -- of MetLife Express, --

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1 A. Yes.
 2 Q. -- summer of '95, --
 3 A. Yes.
 4 Q. -- there was a conclusion that the number
 5 of call centers ought to be consolidated.
 6 A. Yes.
 7 Q. There ought to be fewer call centers.
 8 A. Yes.
 9 Q. That fundamental premise I take it you
 10 agreed with.
 11 A. Yes, I did.
 12 Q. It shouldn't be 20- --
 13 A. No.
 14 Q. --some-odd any more.
 15 A. (Negative head shake).
 16 Q. Okay. At that point in time, was there a
 17 number set?
 18 A. There were numbers bandied about, I don't
 19 know that it was set. And allegedly Phase 3 I
 20 think was to really hone in and determine what that
 21 final number should be.
 22 Q. Okay. What was the range that was
 23 discussed as part of Phase 2?
 24 A. I don't really remember.
 25 Q. Okay. What role did you play after Phase

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1 2 in setting the number in which call centers were
 2 going to stay?
 3 A. After Phase 2, when I participated in
 4 Phase 3, I was -- I voiced my opinions on the
 5 numbers, but I didn't much care as long as Tulsa
 6 was one of them.
 7 Q. And it seemed clear to you from the
 8 beginning Tulsa was going to be one of them?
 9 A. That, yes, it did. But I did not take it
 10 for granted in Phase 3.
 11 Q. Okay. When was Mr. Jeffrey placed in
 12 charge of the call center organization?

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13 A. I'm guessing, somewhere February-March of
14 1996, I believe.

15 Q. Okay. Prior to Mr. Jeffrey taking over
16 the call center organization, how was the
17 organization structured as it related to the Tulsa
18 call center?

19 A. The Tulsa call center was still at that
20 point reporting -- it was still personal insurance
21 and it was still theoretically reporting up through
22 Barbara and that part of the organization.

23 Q. During your absence from the call center
24 in this five-month period, --

25 A. Yes.

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1 Q. -- who had day-to-day responsibility for
2 the call center organization in Tulsa?

3 A. Jeri McCraw.

4 Q. She was one of your -- she was your No. 2
5 person?

6 A. Yes, she was.

7 Q. What involvement did you have in sort of
8 the day-to-day operations during that period, if
9 any?

10 A. Practically none. She was quite competent
11 to handle most of the day-to-day activities. I
12 would get phone calls or be involved when there
13 were major higher level issues, or whatever, but
14 not the day-to-day management.

15 Q. Okay. When Mr. Jeffrey took over the call
16 center organizations, that parsed out the Tulsa
17 call center, among others, and now Tulsa call
18 center reported directly to him, correct?

19 A. Yes.

20 Q. How did you come to know that that was the
21 new structure, and how that happened?

22 A. I don't recall specifically, other than it
23 was understood that as part of the customer service
24 organization, they would be split out. That was --
25 that was -- well, and so I mean I knew it from that

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1 perspective.

2 Q. Was that organizational structure
3 something you agreed with or disagreed with?

4 A. I agreed with it in part, but I did not
5 feel -- I felt if there was going to be a customer
6 service organization, it was going to call itself a
7 customer service organization, it should assume all
8 responsibility for customer service, including what
9 we now term the back office operations.

10 Q. So if you are going to have the
11 organization, your feeling was it didn't go far
12 enough?

13 A. Yes.

14 Q. Didn't bring enough components into --

15 A. Right.

16 Q. -- the customer service organization.

17 A. Right.

18 Q. Okay. Did you know Mr. Jeffrey other than
19 having worked with him in MetLife Express?

20 A. No, I did not.

21 Q. That was the first chance you had had to
22 work with him?

23 A. Yes.

24 Q. Okay. The same with Dr. Friedewald?

25 A. Yes.

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1 Q. And Mr. Jeffrey reported to Dr.
2 Friedewald?
3 A. Yes.
4 Q. Okay. Dr. Friedewald is now head of the
5 customer service organization?
6 A. Yes.
7 Q. Okay. As part of this restructuring and
8 consolidation of call centers, when did the company
9 actually go to the four call centers? I mean over
10 what period of time was that transition made?
11 A. At least through the best part of 1997, I
12 believe; I'm not sure. For some areas, I'm not
13 sure that it is totally complete. Now, I think it
14 is, but I don't know.
15 Q. Okay. When did it start?
16 A. It was starting probably in May of 1996,
17 maybe before.
18 Q. Okay. When did you first become aware
19 that they were going to reevaluate post and accept
20 candidates for what became the site leader position
21 in the call centers?
22 A. I believe when I first became aware that,
23 in essence, my job was at risk was somewhere around
24 February of 1996, in one of the MetLife Express
25 meetings when the discussion began about posting

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1 for site leaders, as to how they would resolve it
2 for some locations.
3 Q. Who was part of that conversation?
4 A. There was a whole Phase 3 team that was
5 part of it. It was the Teleservice and Phase 3
6 team.
7 Q. And what was the reason given for posting
8 and working at candidates for the site leader
9 position?
10 A. I don't really remember what the specific
11 reasons were that were stated at the time, but the
12 company did have a dilemma in some locations, in
13 that they had more than one person in charge of
14 call center operations, in Utica, New York; for
15 example, in Warwick, Rhode Island, there were two
16 separate call centers and they were going to have
17 to have some process to make a selection at those
18 locations.

19 Q. And you say that was the first time you
20 understood your job was at risk?

21 A. Yes.

22 Q. Okay. And by that you mean what?
23 A. Well, I'll put it this way. In other
24 words, I thought — my initial concern was whether
25 or not Tulsa survived, and I considered my job at

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1 risk as to whether or not Tulsa survived. Once
2 we — it became reasonably apparent that Tulsa was
3 going to survive and then that I began to suspect
4 or know that I was going to have to go through a
5 posting process to maintain my job, it was about
6 that time.

7 Q. Other positions in the Tulsa organization
8 were posted and candidates sought as well, correct?
9 A. Yes.

10 Q. It wasn't just the site leader position?
11 A. Yes.
12 Q. Okay.

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13 (Certain documents were marked Deposition
14 Exhibits 26 and 27 for identification by the
15 reporter.)
16 Q. (BY MR. POOR) Mr. Rayl, I am handing you
17 two sets of documents. Deposition Exhibit No. 26,
18 a three-page document, Bates stamped 65, 66 and 67,
19 Deposition Exhibit No. 27 are Bates stamped 63
20 through 75, with the exclusion of the ones I have
21 just pulled out of there.
22 A. Okay.
23 Q. Could you please take a moment to look at
24 those.
25 A. Okay.

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1 Q. Okay. Take a look at Deposition Exhibit
2 No. 26 first, please.
3 A. Uh-huh.
4 Q. Will you identify those documents for me.
5 A. This is one copy, I believe it is the same
6 posting notice that was actually posted in our
7 office for the site leader position.
8 Q. Okay. What was posted, the first page or
9 all three?
10 A. Only the first page. These came out of
11 MetLife Express documents.
12 Q. Okay. So 66 and 67 are iterations that
13 led to the final posting, —
14 A. Yes.
15 Q. — which is the page that has been marked
16 PL-00065?
17 A. Yes. Yes, this is not the exact copy that
18 was posted. I have got it. In fact, it should
19 have been in one of those other exhibits.
20 Q. And it is this posting or one identical to
21 it to which you responded?
22 A. Yes.
23 Q. Okay.
24 A. I assume this — I assume there's no
25 changes between this and the other one.
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1 Q. All right. Do you recall when it was
2 posted?
3 A. I believe it was posted April 5th.
4 Q. Okay. You then, in turn, submitted a set
5 of materials applying for that position, correct?
6 A. Yes, I did.
7 (A certain document was marked Deposition
8 Exhibit 28 for identification by the reporter.)
9 Q. (BY MR. POOR) I am handing you what has
10 been marked as Deposition Exhibit No. 28. It's a
11 set of materials produced to us, Bates stamped
12 Plaintiff's 1 through Plaintiff's 35.
13 A. Yes.
14 Q. It was under the heading "Site Leader
15 Posting Notice Application and Related."
16 A. Yes.
17 Q. And it is a series of documents, and I
18 would like your help in walking through the
19 process.
20 A. Okay.
21 Q. The posting went up I think you said April
22 15th.
23 A. April 5th.
24 Q. April 5th. You had known prior to April
25 5th, obviously, by virtue of your involvement with
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1 MetLife Express that it was going to be posted?
 2 A. Yes.
 3 Q. That was not a particular -- seeing the
 4 posting didn't come as a particular shock to you?
 5 A. No, it did not.
 6 Q. What happened next in the process? Did
 7 you talk to someone? Did you submit the
 8 application?
 9 A. I submitted the application. I did not
 10 really talk with anyone, but submitted my
 11 application to our local Human Resources
 12 organization.
 13 Q. All right. Now, I have these in the order
 14 in which they were produced to us, Mr. Rayl, but
 15 perhaps you can help me --

16 A. Sure.
 17 Q. -- understand what I have here.
 18 A. Okay.
 19 Q. What is Bates stamped as 15 is the actual
 20 posting?
 21 A. Yes.
 22 Q. Okay. To which you are responding,
 23 correct?
 24 A. Yes.
 25 Q. Okay. And then Bates stamped 16 --

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1 A. Is the application.
 2 Q. That is the form you fill out?
 3 A. Yes.
 4 Q. That has your name and stuff on it.
 5 Basically, it says "See attachments"?
 6 A. Yes.
 7 Q. Now, are the attachments what has been
 8 Bates stamped 001 through -14?
 9 A. Yes.
 10 Q. Okay. So to duplicate the package that
 11 you originally submitted, it would be Bates stamped
 12 16 then?
 13 A. On top of --
 14 Q. On top of 1 through 14?
 15 A. Yes.
 16 Q. Okay. So this you hand to Tulsa Human
 17 Resources?
 18 A. Yes.
 19 Q. And as part of this package, you have got
 20 there's some correspondence back and forth between
 21 Human Resources --
 22 A. Yes.
 23 Q. -- confirming that you got it and "did you
 24 get it?"
 25 A. Right.

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1 Q. "Yes, we got it."
 2 A. I took no chances.
 3 Q. Okay. To make sure it got in.
 4 A. (Affirmative head nod).
 5 Q. All right. What happened next in the
 6 process?
 7 A. The next step was I was finally notified
 8 that interviews would be conducted on April 30th.
 9 I met and interviewed individually with Bill
 10 Friedewald; the same day I met and interviewed with
 11 Ralph Jeffrey and Jim Gemas.
 12 Q. Is that in New York or was it in Tulsa?

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13 A. It was in New York.
14 Q. Okay. And Tulsa was the only place you
15 are interested in, correct?
16 A. Yes.
17 Q. Did you meet with the three of them
18 individually or separately?
19 A. Mr. Gemas and Mr. Jeffrey were together
20 and I met with them, and I met with Mr. Friedewald
21 separately.
22 Q. Who came first?
23 A. Friedewald.
24 Q. Okay. How long, -- and that was just you
25 and Dr. Friedewald?

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1 A. Yes.
2 Q. How long did that interview last?
3 A. My recollection is it was somewhere around
4 50 minutes to an hour.
5 Q. Okay. And in general, can you tell me
6 what you covered with Dr. Friedewald?
7 A. Not at this specific time. He had a very
8 set -- I mean a very definite set of questions that
9 we went through, and I answered those questions.
10 Q. Did he have a script in front of him or
11 pieces of paper, --
12 A. My--
13 Q. -- or does it appear just to be right?
14 A. No, I think he had some notes that he
15 worked from. I mean I got the distinct sense that
16 I was being asked the same questions that everybody
17 else had been asked.
18 Q. Did you know who was in the pool of people
19 being considered at that point in time?
20 A. I knew some of the people in the pool. It
21 is -- my recollection at that time was that he
22 indicated to me that there was something in the
23 neighborhood of 27 internal candidates and some
24 lesser number of external candidates.
25 Q. Did he give you the numbers three or four?

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1 A. That's what I think it was that he told
2 me, yes.
3 Q. Okay. So at that point you knew that
4 there were both internal and external candidates
5 being considered for the site leader positions?
6 A. The note that was also part of this
7 package was a notification that our Human Resources
8 received that the company was going to go to an
9 outside search firm, I believe it is Plaintiff's
10 20, that indicated they had contracted with an
11 outside search firm.
12 Q. And that's a memo, or an E mail or --
13 A. Whatever --
14 Q. -- whatever it is, dated April 4th of
15 1996?
16 A. Yes.
17 Q. The date is on the bottom.
18 A. Yes.
19 Q. Okay. So you knew they were looking
20 outside as well even before you met with Dr.
21 Friedewald --
22 A. Yes.
23 Q. -- and the group in New York?
24 A. (Affirmative head nod).
25 Q. You didn't know who those candidates were.

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1 the external candidates?
2 A. No, I did not.
3 Q. Okay. In the course of your conversation
4 with Dr. Friedewald, did you talk about the issue
5 of going to external candidates, whether there was
6 a need why they were going to external candidates?
7 A. I don't know whether I did or not.
8 Q. Okay. Was that an issue that had been
9 discussed in any of the MetLife Express meetings
10 which you attended?

11 A. I'm sure that there - I mean my
12 recollection is that there was some mention
13 somewhere along the way that that was at least
14 being considered.

15 Q. Okay. So seeing the indication in Human
16 Resources that they were looking for external
17 candidates wasn't a complete surprise -

18 A. No.

19 Q. - to you?

20 A. (Negative head shake).

21 Q. Okay. When it came up in MetLife Express,
22 at least, the mention of it, did you pose an
23 objection or raise concerns over the need to do
24 that at that time?

25 A. I really don't remember whether I voiced
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1 my opinion on that subject at that time or not. I
2 mean with the abundance of internal candidates and
3 all the alleged steps the company was taking to
4 preserve employees as a result of the downsizing,
5 whatever you want to call it, the things that
6 happened as a result of MetLife Express, I didn't
7 agree with it.

8 Q. But my question is - I know you didn't
9 agree with it, -

10 A. I don't know that I voiced my opinion at
11 that time, I mean I don't know.

12 Q. Okay. The customer service call center
13 organization was not the only area being affected
14 by MetLife Express, -

15 A. No.

16 Q. - correct?

17 A. Right.

18 Q. And there were in all areas of the company
19 people changing jobs, consolidating jobs, moving
20 jobs -

21 A. Yes.

22 Q. - losing jobs?

23 A. Yes.

24 Q. Sort of the whole range, correct?

25 A. Yes.

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1 Q. Do you have any other recollection as to
2 what you and Dr. Friedewald discussed during this
3 50 minute to an hour?

4 A. Not at the moment. My sense was it was a
5 pleasant conversation, and I actually felt
6 reasonably good when I finished that interview.

7 Q. Okay. You then went to talk to Mr.
8 Jeffrey -

9 A. Yes.

10 Q. - and Mr. Gemas?

11 A. Yes.

12 Q. What position did Mr. Gemas hold?

13 A. He was -- had some role in the business
14 services group, Human Resources organization.
15 Q. He had the HR liaison role --
16 A. Yes, I believe that --
17 Q. -- into the customer service organization?
18 A. Yes.
19 Q. Okay. How long did that interview last?
20 A. I don't -- I don't really remember. I
21 would guess it was in the same neighborhood of an
22 hour, but I'm not sure.
23 Q. What do you recall being said during that
24 interview?
25 A. Not a lot. I mean Ralph and I discussed

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1 some issues, but at this moment I don't really
2 recall the specifics of that interview.
3 Q. Okay. In the job vacancy notice which you
4 have sitting in front of you, minus Bates Stamp No.
5 15, --

6 A. Uh-huh.
7 Q. -- under "Qualifications," it talks about
8 "Exhibits participatory management style in
9 current position or has capacity to adapt to new
10 techniques."

11 A. Yes.
12 Q. In your interviews with Dr. Friedewald and
13 then with Mr. Jeffrey and Mr. Gemas, was there a
14 conversation as to what that meant or what they
15 were looking for in that respect?
16 A. If there was, I don't recall it, but
17 certainly my management style with my subordinates
18 is participatory, and I think any number of them
19 would attest to that.
20 Q. Had you ever been criticized by any of
21 your superiors for lacking participatory management
22 style?

23 A. Yes, I had been criticized for that
24 because I think they were quick to make judgments
25 that the manner in which I dealt with them or in

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1 some cases the peers, I was generally pretty
2 forthright and strong in some of the way I dealt
3 with them and so they perceived that to be an
4 issue, but I don't think it's supported by the
5 people that work for me.

6 Q. But there were some of your superiors who
7 at least had that perception?

8 A. Yes, absolutely.
9 Q. Was that an issue discussed in your

10 interview process?

11 A. Not to my recollection.

12 Q. Okay. Following your trip to New York,
13 what was the next step that happened?

14 A. There were a series of conference calls,
15 there was a series of other information, the
16 transition was going on. It was somewhat business
17 as usual until Mr. Jeffrey was terminated or lost
18 his position.

19 Q. How did you become aware of Mr. Jeffrey
20 was no longer going to be in the call center
21 organization?

22 A. It was a result of either an individual or
23 a conference call, I think it was a conference call
24 from Dr. Friedewald, announcing that Ralph was gone
25 and that he was setting up a temporary

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1 organization.
2 Q. Who participated in that conference call?
3 A. Typically what they were doing was there
4 were conference calls with everyone who was an
5 active – or – well, active manager or site leader
6 of the sites that were surviving, which was Utica,
7 Dayton, Warwick and Tulsa. And there were two call
8 center in Warwick, PC and personal insurance, and I
9 believe there were a couple of different ones in
10 Utica.

11 Q. Just to close the loop, –

12 A. Sure.

13 Q. – Deposition Exhibit 27, which is over on
14 your right hand –

15 A. Yes.

16 Q. – are some of the job descriptions you
17 produced to us or job posting notices for some of
18 the other positions in the call center
19 organization, correct?

20 A. Yes, yes.

21 Q. Okay. So as I think we covered before, it
22 wasn't just your position that was being posted and
23 applications taken for, it was a number of
24 positions within the organization?

25 A. Right.

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1 Q. Okay.
2 A. The site leader was generally, except for
3 one other job, the highest level job.
4 Q. Right. And you all reported to Mr.
5 Jeffrey or whatever that – and then given to Mr.
6 St. John?

7 A. Yes.

8 Q. Okay.

9 (A certain document was marked Deposition
10 Exhibit 29 for identification by the reporter.)

11 Q. (BY MR. POOR) I am handing you as group
12 exhibit, marked as Group Exhibit No. 29.

13 A. Yes.

14 Q. Are the documents produced to us relating
15 to this interim site coordinator?

16 A. Yes.

17 Q. That we have been discussing?

18 A. Yes.

19 Q. Okay. And this is now, if you will note,
20 what's been Bates stamped as Bates Stamp 22, an
21 announcement to Call Center Associates, dated June
22 3rd, 1996, from Dr. Friedewald announcing that he
23 was assuming responsibility for the call center
24 organization, Mr. Jeffrey was going elsewhere.

25 A. Yes.

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1 Q. Okay. Is that about the time you had the
2 conference call?

3 A. Yes, it is. This was either received the
4 same day or within a day of that call.

5 Q. Okay. And then there are a series of
6 documents and, in fact, Dr. Friedewald, I assume,
7 prepared this some dated June 4th, some dated June
8 10th, setting forth what is repeatedly referred to
9 as the "temporary organization."

10 A. Yes.

11 Q. Okay. And announcing the interim
12 coordinators?

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13 A. Yes.
14 Q. Who were the interim coordinators other
15 than you?

16 A. That's on --
17 Q. It is on page 23 or Bates stamped 23, I
18 believe.

19 A. Okay. Ed O'Day, I believe, was one of
20 the -- I believe he was at that time in charge of
21 the property and casualty call center in Utica.
22 Rosie Swisher was in charge of the property and
23 casualty call center in Dayton.

24 Patty Lager was in charge of the group
25 P&C; Kathy Schoos, who was my counterpart on the
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1 ILI side had withdrawn her name from consideration
2 for the call center site leader, and there was
3 myself.

4 Q. Okay. Did you come to understand why Mr.
5 Jeffrey was no longer part of the call center
6 organization?

7 A. No, I never really heard the story as to
8 what happened. I do not know to this date what
9 transpired.

10 Q. Did it come as a surprise to you that Mr.
11 Jeffrey was moved out of the organization?

12 A. It came as quite a shock. He was one of
13 the few people that had been held accountable.

14 Q. What do you mean by that?

15 A. Typically, if -- it's a personal opinion,
16 it's my opinion that MetLife in many cases when
17 they have had officers or whatever who fail to
18 perform adequately, actually take them out of the
19 position. There have been very few done that I
20 know of in my 37 years.

21 Q. I take it you perceived that Mr. Jeffrey
22 was not performing adequately?

23 A. No. I think that that was their
24 assessment of that. I had my own opinions, but,
25 no, he certainly was not performing any worse than

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1 any number of other people. It was just a
2 surprise. I --

3 Q. What was your opinion in terms of the job
4 Mr. Jeffrey was doing in this relatively short
5 period?

6 A. My opinion was that Phase 2 of MetLife
7 Express developed a real concept and understanding
8 of what customer service should be and what the
9 call centers should be. As things progressed down
10 the path, things that a high value was placed on in
11 Phase 2 were succumbing to just the organizational
12 issues and pressures and I felt like Mr. Jeffrey
13 had compromised quite a number of things that we
14 had gone on, but that was not unusual. I felt to
15 the extent that as long as Tulsa survived and as
16 long as I was leading it, I could make the best out
17 of it and --

18 Q. Give me an example of what you think Mr.
19 Jeffrey was compromising as a result of these
20 organizational pressures.

21 A. We still were not dealing with some of the
22 fundamental issues as to service delivery, in other
23 words, there was marketing resistance to really
24 putting out a forthright statement that says
25 Teleservicing will become the primary customer

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1 service vehicle. He was shying away from some of
2 those battles, if you want to call it, but I don't
3 fault him for it; I mean --
4 Q. Just hard battles to fight in an
5 organization.

6 A. They are very hard -- I thought that
7 MetLife Express would open the door and make a lot
8 of them easier, but it became pretty much business
9 as usual after that.

10 Q. Still a lot of turf wars being fought?

11 A. Well, probably more than ever.
12 Q. Okay. And Mr. Jeffrey didn't survive?

13 A. He did not survive.

14 Q. Okay. Did you have any conversation with
15 Dr. Friedewald about who was going to succeed Mr.
16 Jeffrey?

17 A. No. I was not interested in the position,
18 so my only concern was announce the Tulsa site
19 leader and we had been promised that and that was
20 my concern. I wanted to go back to my little part
21 of the world and do what I could.

22 Q. Did you know whether Dr. Friedewald was
23 looking at internal candidates, external
24 candidates?

25 A. I think he mentioned that he was looking
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1 externally at some point, but I don't remember when
2 that happened.

3 Q. And Mr. Stan St. John was hired --

4 A. Yes.

5 Q. -- to replace Mr. Jeffrey?

6 A. Yes.

7 Q. When did you become aware Mr. St. John was
8 hired?

9 A. There was an announcement from Dr.
10 Friedewald somewhere around mid-June that Mr. St.
11 John would be coming on board July 1st, I believe.

12 Q. Did you learn that from Dr. Friedewald in
13 a teleconference or by memo?

14 A. There was, you know, like an E-mail, but
15 he may have also told us that in a conference call;
16 I really don't remember.

17 Q. Mr. St. John was new to the MetLife
18 organization, correct?

19 A. Yes, he was.

20 Q. He came from AT&T, I believe.

21 A. Yes.

22 Q. And prior to joining MetLife, he had had

23 no contact with you?

24 A. No.

25 Q. You didn't know him from Adam, I presume?

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1 A. No, I did not.

2 Q. When is the first opportunity you had to
3 talk to or communicate with Mr. St. John about the
4 call center organization, what he was -- what his
5 vision or what he was trying to do with the call
6 center organization?

7 A. The only significant conversation dealt
8 with -- he made a series of visits to the four call
9 centers. It was left up to those interim site
10 leaders to set up the agenda and handle his visit,
11 I believe it was two days, I don't remember the
12 exact dates, but it was mid-July. And we prepared

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13 a presentation for him in which all of my key
14 associates participated, trying to really give him
15 background and understanding of the issues
16 associated with the individual business, the call
17 centers, some of what we learned in MetLife Express
18 and mostly it was an opportunity to present our
19 vision of what we thought it should be.

20 Q. Prior to that visit, what dealings had you
21 had with Mr. St. John?

22 A. I think the only dealings we had were via
23 conference calls and E-mails.

24 Q. Did he hold video teleconferences?

25 A. I don't specifically remember any video

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1 teleconferences. I wouldn't rule it out, but most
2 of them were just via telephone.

3 Q. And who would be on the conference calls?

4 A. All the interim site leaders.

5 Q. So then there would be the four of you, -

6 A. Yes.

7 Q. - plus Mr. St. John?

8 A. Yes. And Bill Friedewald, usually.

9 Q. Dr. Friedewald would usually be invited?

10 A. Yes, I think so.

11 Q. Okay. How long would these

12 teleconferences usually last?

13 A. I don't really remember. I don't remember
14 them being exceptional in any - I mean, you know,
15 I don't remember them dragging on for hours like
16 some of them tend to do. I mean he's - he was
17 pretty much to the point and discussed what he
18 wanted to discuss.

19 Q. What would typically be the issues
20 discussed during these conferences?

21 A. Gee, there was any number of transition
22 issues that we were dealing with, from staffing to
23 the type of furniture that was being ordered;
24 that's another interesting story. I mean to the
25 extent that I managed to get them to change their

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1 standard on the furniture and that sort of stuff
2 for the SCSSs. But there were just - there was a
3 host of transition issues that were arising that we
4 were dealing with.

5 Q. Just sort of the nuts and bolts of
6 administrative issues of getting functions into the
7 call centers and -

8 A. Major, but nuts and bolts, yes.

9 Q. I didn't mean to infer they were
10 insignificant, -

11 A. Right, right.

12 Q. - but they were the management
13 challenges -

14 A. What are you doing, what are your hiring
15 plans, yes.

16 Q. Okay. How many of those did you
17 participate in prior to Mr. St. John coming out to
18 Tulsa, if you recall?

19 A. No, I don't really recall, but it was like
20 within a couple of weeks when he came out there,
21 so - I - it couldn't have been too many.

22 Q. Okay. Now, what was the basic agenda for
23 Mr. St. John's visit into Tulsa? What did he do?

24 A. I have given you -

25 Q. Just tell me what you remember.

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1 A. Well, we tried to outline virtually many
 2 of the key issues that we saw confronting the call
 3 center, one of them was, not the least of which the
 4 telecommunications function that was -- was being
 5 sought to be controlled by the IT organization.
 6 There were issues associated with the corporate 800
 7 number and there were a host of issues on the
 8 personal insurance side.

9 There were training issues, I mean we
 10 prepared and gave him a very broad overview of what
 11 we perceived were the issues that he needed to know
 12 about and in many cases he needed to be prepared to
 13 address at some point as a part of his
 14 responsibilities.

15 Q. During his visit, how much time did you
 16 have to spend with Mr. St. John on a one-on-one
 17 basis? I know, for example, you picked him up at
 18 the airport, which isn't all that far from MetLife
 19 offices, but --

20 A. There were two of us at the time, Jerri
 21 McCraw and I both picked him up at the airport and
 22 had dinner with him that night. I don't -- I don't
 23 recall that he spent any significant amount of time
 24 with me one on one. It was pretty much a group
 25 thing. He addressed all the customer service

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1 consultants and discussed his philosophy and his
 2 vision a little bit, but he did not spend any
 3 significant amount of time with me, and he
 4 certainly did not conduct anything that represented
 5 a discussion of my philosophies or my management
 6 background or skills or any of that.

7 Q. Do you have any knowledge as to what
 8 information Mr. St. John had about you during the
 9 period of time that he was supervising you in terms
 10 of background or information?

11 A. No, I have no idea. But I have no reason
 12 to think it should be anything but positive.

13 Q. Okay. Did he talk about his philosophy or
 14 what he was looking for in his management team,
 15 during either these conference calls or --

16 A. There were issues discussed, yes, none of
 17 which posed a particular problem for me. They were
 18 pretty much the standard line with respect to what
 19 the overall mission was that came out of MetLife
 20 Express, and I mean I just -- there just wasn't
 21 really a lot of time or involvement to develop any
 22 issues with him.

23 Q. Well, what did he describe in terms of his
 24 philosophy of management or, you know, what he was
 25 looking, the kind of philosophy he was looking for

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1 his managers to have, whether they posed a problem
 2 for you or not? I mean what were the words that he
 3 said?

4 A. I don't even remember.

5 Q. Okay. Did you have any conversation with
 6 Mr. St. John about the process he was going to go
 7 through to finalize the appointments to the site
 8 leader?

9 A. We had one point prior to Mr. St. John,
 10 we -- "we" being the other interim site leaders --
 11 asked if we would have to be reinterviewed. And
 12 Dr. Friedewald had told us "no, there would not be

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13 additional interviews conducted."

14 Mr. St. John, I believe, in one of his

15 conference calls alluded to the fact that he was

16 conducting interviews, did not know whether that

17 was external, did not know whether that was people

18 that were in the original pool that perhaps he did

19 not see on his tour of visits to the call centers,

20 so I did not really know, other than everybody was

21 getting pretty anxious over when they were going to

22 make the announcement.

23 Q. How much interaction did you have with Mr.

24 St. John between the time he was hired and your

25 conversation with him on August 20th?

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1 A. I had a substantial amount of interaction

2 in written form. I sent him several memos, lots of

3 E-mails, trying to address some of his concerns.

4 We did – I did, you know, have conference calls

5 with him, but considering his relatively short

6 period of time, I had a pretty fair amount of

7 interaction. I would say he got more things in

8 writing from me than he did from the other three

9 combined.

10 Q. Okay. Did Mr. St. John during this couple

11 of month period express any concerns that he had to

12 you directly about what was going on in Tulsa, what

13 was going on in terms of your management of Tulsa,

14 your performance prior to the August 21st session?

15 A. No, he did not. He made an offhand remark

16 one time in a conference call, which I addressed in

17 writing, but he never directly spoke to me or

18 challenged my abilities or my performance.

19 Q. This is the project management remark –

20 A. Yes.

21 Q. – on the CallPath?

22 A. Yes, it is.

23 Q. And this was in the conference call with

24 Laurie –

25 A. Laura Sokolski.

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1 Q. Sokolski.

2 A. Yes.

3 (A certain document was marked Deposition

4 Exhibit 30 for identification by the reporter.)

5 Q. (BY MR. POOR) I am handing you what has

6 been marked Deposition Exhibit No. 30 –

7 A. Yes.

8 Q. – for the purposes of identification.

9 This is the memorandum you just alluded to,

10 together with the underlying attachment, the E-mail

11 back and forth about the problem –

12 A. Yes.

13 Q. – migrating to the new switch?

14 A. Yes.

15 Q. Okay. And you prepared this document?

16 A. That was after –

17 Q. Sometime after the –

18 A. That's right. Because I, in the event

19 that he was going to attempt at some later date to

20 use that for – as justification for his action, I

21 wanted a formal document, documentation of the

22 really events that transpired.

23 Q. When did this conversation occur?

24 A. It would appear that it was somewhere in

25 the two weeks preceding my being dismissed or

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1 whatever.
2 Q. I am presuming it is less than that. I
3 mean you referred to it --
4 A. It may be, this other --
5 Q. -- on August 16th PROFS message, --
6 A. Yes.
7 Q. -- and then you had a conversation with
8 him on the 21st.
9 A. Yes, it could well be in there. I don't
10 -- I don't know exactly.
11 Q. Okay.
12 A. It was right in there, but --
13 Q. Okay. When did you first learn that you
14 were not going to be appointed to the site leader
15 position?
16 A. August 22nd.
17 Q. And you got the phone call from Mr. St.
18 John?
19 A. Yes.
20 Q. Okay. He called you?
21 A. Yes, he did.
22 Q. Okay. And that was about a week or so
23 after he had previously indicated the announcement
24 would be made?
25 A. Yes.

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1 Q. He said I can't remember, it was the 12th
2 or 15th, and this was now the 22nd?
3 A. Right.
4 Q. Okay. And this was a phone call?
5 A. Yes, it was.
6 Q. Okay. As best you can recall for me,
7 please, what did he say to you and what did you say
8 to him?
9 A. That conversation is documented somewhere.
10 Q. I know you have notes; I am asking for
11 your recollection as you sit here today, I want to
12 know what you recall him saying to you and what you
13 recall saying to him.
14 A. He discussed the fact that he felt I did
15 not speak up on the conference calls, and in which
16 case -- which I found it very frustrating; in other
17 words, to try and discuss some of the issues with
18 the other interim site coordinators on a conference
19 call, but --
20 Q. Let me stop you for a minute, Mr. Ray.
21 A. Okay.
22 Q. Because I -- well, come to sort of what
23 you think about all of this.
24 A. All right, fine.
25 Q. What I am really interested in is the

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1 phone rings, you pick it up, and you say "hello,
2 Jim Ray!"
3 A. Okay.
4 Q. The voice on the other end says, "Hi Jim,
5 this is Stan."
6 A. And something to the effect that he wanted
7 to let me know that I was not being selected as the
8 site leader; that he had issues with my management
9 style or whatever; that he felt I was too much of a
10 -- quote -- strategic thinker for the position and
11 that he was -- he felt for whatever reason that, as
12 I recall, I lacked team-building skills or

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13 whatever.
14 Q. What do you recall saying to him?
15 A. I recall saying to him that I disagreed
16 with his assessment; that I think what I had
17 accomplished and what the call center – where it
18 was and how well it was performing was a pretty
19 profound statement as to how well or how effective
20 I was as a manager.

21 It seemed to me that, if anything,
22 Teleservicing needed some strategic thinking, if
23 there was anything lacking in the company, it was
24 strategic thinking, and that I recall that I said
25 I – I think I said I wish him luck.

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1 Q. When you were talking about the need for
2 strategic thinking, what did you mean by that term?
3 A. I mean in that term somebody who will be
4 proactive as opposed to reactive in trying to get
5 call center customer company issues surfaced and
6 addressed.

7 Q. Okay. Did Mr. St. John explain to you
8 what he meant by that term?
9 A. No, he did not.
10 Q. Okay. And it was during this conversation
11 that Mr. St. John expressed dissatisfaction with
12 how you handled the conference calls, I take it.
13 A. Well, his comment was something to the
14 effect that he really thought I should speak up
15 more in the conference calls, and which I told him,
16 there was no absence of his getting my opinions and
17 input in writing, which I – he had a lot of.

18 Q. Did Mr. St. John indicate to you that he
19 felt it was a problem that you didn't speak up in
20 the conference calls and then sent your thoughts in
21 writing? Did he tie the two together?

22 A. He may have. He may have – I think he
23 may have made some comment to that effect; I don't
24 know.

25 Q. Okay. And it would be accurate, would it
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1 not, that you did send – I think you already told
2 me this, you did send Mr. St. John a lot of
3 E-mails, memoranda, letters?
4 A. Yes, most of which he either said he
5 appreciated, or thanked me for or whatever.
6 Q. How long did this conversation last?
7 A. Probably no more than five minutes.
8 Q. To your knowledge, was anyone else on the
9 phone?

10 A. Not to my knowledge.

11 Q. Okay. Did you record the conversation in
12 any way, other than perhaps taking down notes?

13 A. No, I did not.

14 Q. Okay.

15 MR. POOR: Let me take a short break.

16 (Brief recess.)

17 Q. (BY MR. POOR) Following this conversation
18 with Mr. St. John on the 22nd, –

19 A. Yes.

20 Q. – what did you do then? What was the
21 next thing that happened?

22 A. I believe I sent an E-mail to Mr. St.
23 John, and I may have told him during the call, I
24 don't know, but I sent him an E-mail telling him
25 that inasmuch as I was not going to be a part of

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1 the organization, I would depart as quickly as I
2 could. I was going to take two or three days to
3 get my things together and I then proceeded to take
4 vacation.

5 (Certain documents were marked Deposition
6 Exhibits 31 and 32 for identification by the
7 reporter.)

8 Q. (BY MR. POOR) I am handing you what has
9 been marked as Deposition Exhibit No. 31. Is
10 that -

11 A. Oh, okay.

12 Q. - a copy of the E-mail?

13 A. Well, I said what I did -

14 Q. This is a typed-out version.

15 A. No, I must have faxed it as opposed to
16 being an E-mail, but yes, that is a copy of what I
17 sent to him, and it must not have been August --
18 August 22nd must have been the last day I was
19 there.

20 Q. I thought the conversation was on August
21 20th, to be honest with you.

22 A. That probably makes sense, and the 22nd
23 maybe was the last day I was there or something
24 like that.

25 Q. Okay. In the conversations, did Mr. St.
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1 John ask you to continue in the role as interim
2 site coordinator?

3 A. Yes, he did.

4 Q. Okay. And you responded with this -

5 A. Yes.

6 Q. - what is Deposition Exhibit No. 31. And
7 you copied Dr. Friedewald?

8 A. Yes, I did.

9 Q. All right. Now, on, I believe, the same
10 day there is also an E-mail that you sent Mr. St.
11 John about a coordinator's conference call,

12 something -

13 A. Yes.

14 Q. I am handing you what has been marked as
15 Deposition Exhibit No. 32.

16 A. Yes.

17 Q. What was that issue?

18 A. Apparently, he left me a voice mail and
19 indicated there was the phone call that was to take
20 place of which I had no knowledge, but that I was
21 not going to participate after - and I have
22 expressed here pretty much what I felt.

23 Q. Okay. And you copied Dr. Friedewald?

24 A. Yes, I did.

25 (A certain document was marked Deposition

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1 Exhibit 33 for identification by the reporter.)

2 Q. (BY MR. POOR) Now, you mentioned earlier
3 that you had kept a record or made notes about your
4 conversation -

5 A. Yes.

6 Q. - with Mr. St. John on the 20th.

7 A. Yes.

8 Q. I am handing you what has been marked as
9 Deposition Exhibit No. 33. Is that the record that
10 you were referring to previously?

11 A. Yes.

12 Q. And you prepared that on or about August.

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13 26th? At least that's the date --
14 A. Yes, that would be the date I did it.
15 Q. Did you have any further conversations
16 with Mr. St. John about his decision, why he made
17 the decision, why he hired Miss Hemenway?
18 A. No, I did not. It was obvious to me.

19 Q. What was obvious to you?
20 A. That he wanted someone else in the
21 position with whom he had worked, in spite of what
22 I had done and my accomplishments and my
23 contributions.

24 Q. And that certainly seems to be what
25 happened here, he had worked with Miss Hemenway --

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1 A. Yes.
2 Q. -- at AT&T?
3 A. (Affirmative head nod).
4 Q. Did you form any belief as to why he
5 wanted someone like Miss Hemenway in the
6 organization?
7 A. No, because I considered what he had done
8 to be an absolute violation of company policy.
9 Q. Put aside what -- a violation of company
10 policy, we are going to talk about that in depth.
11 My question was did you form any opinion as to why
12 he would want Miss Hemenway in that position?

13 A. No.
14 Q. Okay.
15 (A certain document was marked Deposition
16 Exhibit 34 for identification by the reporter.)
17 Q. (BY MR. POOR) I am handing you what has
18 been marked Deposition Exhibit No. 34, Bates
19 stamped 48 through 50, --
20 A. Uh-huh.
21 Q. -- that's the announcement, is it not, of
22 the --
23 A. Yes, it is.
24 Q. -- call center?
25 A. Yes, it is.

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1 Q. And in Dayton, Miss Swisher became the
2 call center site leader?
3 A. Right.
4 Q. And she had been the interim site leader
5 in Dayton prior to that, --
6 A. Yes.
7 Q. -- correct? The announcement of Miss
8 Hemenway in Tulsa. In Utica, a Mario LaPolla --
9 A. Yes.
10 Q. -- came from MetraHealth?
11 A. Yes.
12 Q. Which at that time was not a MetLife
13 Company, correct?
14 A. At that time, I'm not sure what MetLife's
15 affiliation was with MetraHealth. I thought they
16 had an interest in it until it now became United
17 HealthCare, which I don't think we have an interest
18 in, but I don't know.
19 Q. So at some point it was transitioned away
20 from MetLife into --
21 A. Right, right. And that was -- it was
22 transitioned away in the creation of MetraHealth.
23 But I thought MetLife still had an ownership
24 interest.
25 Q. Okay. Who had been the interim site

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1 leader there?
2 A. I believe that was Ed O'Day.
3 Q. Okay.
4 A. Who was appointed the implementation
5 director.
6 Q. Implementation director. And Mr. LaPolla
7 came from outside at least the prior call center
8 organization --
9 A. Yes.
10 Q. -- if not MetLife itself?
11 A. Yes.
12 Q. Okay. And then Paity Lager had been
13 interim site leader in Warwick?
14 A. Yes.
15 Q. Okay. Now, following that you packed up
16 and took vacation?
17 A. Yes.
18 Q. Okay. When did you start your position as
19 director -- I'm sorry, I have now forgotten.
20 A. It is the director of Planning,
21 Development & Inforce Management.
22 Q. Inforce Management.
23 A. That I am not sure when that job became
24 formalized. I would say it was probably not until
25 the beginning of -- it was either late 1996 or

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1 early 1997. The position did not exist, it was one
2 for which I had to post subsequent to my dismissal
3 from the call center operation, but approximately
4 two, two to two-and-a-half weeks after I departed
5 and was sitting at home, I received a call from
6 Barbara Gardner, who basically indicated that she
7 would like me to come into the office and work to
8 support her operation, even though I had no formal
9 position in the company.

10 Q. Okay. Now, how much vacation did you have
11 as of August 20th or 21st?
12 A. I had at least 120 days at that time.
13 Q. Okay. So you left the position of interim
14 site coordinator?
15 A. Right, right.
16 Q. And went on vacation.
17 A. Right.
18 Q. And it was during the course of the time
19 while you were at home drawing vacation pay or I
20 guess it would just be the same salary, correct?
21 A. Right.
22 Q. You get a call from Ms. Gardner?
23 A. Yes.
24 Q. Okay. Asking you to come in and perform
25 some special projects or something?

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1 A. Yes.
2 Q. Okay. Now, at what point in this process
3 did the inforce management position, were those
4 discussions had with you?
5 A. One of the discussions was originally held
6 with me somewhere around August 14th, when Rich
7 Anderson was visiting Tulsa and the individual
8 business organization or ILI was in the process of
9 trying to reorganize, partly because of having the
10 call center taken away, partly to achieve some
11 consistency with Warwick, and at that time Rich
12 spoke with me and indicated that this position was

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13 going to be created and he wanted to know if I was
 14 interested in it.
 15 Q. And at that time I think you told him you
 16 would think about it.
 17 A. Yes.
 18 Q. Okay. And then the next contact was a
 19 couple weeks later when Barbara called you to come
 20 in and do some special projects?
 21 A. Yes.

22 Q. Which I take it you did.
 23 A. Yes. I don't remember the exact time
 24 frame in which that job wound up being formally
 25 posted, and I applied for it. I want to think it

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1 was like October, but I don't remember for sure.
 2 Q. Okay. And then you moved into what became
 3 the director of inforce management position?

4 A. Yes.
 5 Q. And what does that job entail?
 6 A. At – there was a transition issue that
 7 took place with respect to the procedural
 8 development for the call center. It was not
 9 originally envisioned to encompass that activity,
 10 and somewhere in all of that it was agreed that the
 11 – quote – business unit would assume that
 12 responsibility and it was included in that
 13 organization.

14 Q. What function is that?
 15 A. All the procedural development writing for
 16 the customer service representatives in the call
 17 center. There was also a piece of the training
 18 organization for individual business, was in that
 19 organization. There was the budget and expense
 20 area was included in that organization, and that
 21 was created, in essence, one-half of that
 22 organization, with its own manager.

23 The other half of the organization was
 24 what is known as the inforce management, which has
 25 been kind of an evolving company project related to

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1 maintaining our inforce business and conservation
 2 and things like that, with its own manager.
 3 Q. Are there other directors of inforce
 4 management in the company?

5 A. I think there is one other in Warwick,

6 yes.

7 Q. Okay. To whom do you report?
 8 A. I did report to Barbara during that period
 9 of time. I now report to – in December-January of
 10 1997, Barbara became an agency vice president and
 11 was moved to our marketing organization. At that
 12 time for a year, another director in the building
 13 who had moved there from our Little Rock
 14 organization and myself co-shared responsibility
 15 for managing individual business there while they
 16 went – while they sought a replacement for
 17 Barbara, and that was just resolved like November
 18 of '97.

19 Q. Okay. Was that position posted?
 20 A. No, it was not.
 21 Q. That position reports to Mr. Anderson?
 22 A. Yes, it does.
 23 Q. Did you have any conversations with Mr.
 24 Anderson about that position and who was going to
 25 fill it, whether you would be considered?

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1 A. I did have a conversation, I don't exactly
2 remember when, I mean it - there probably is
3 documentation there as to when he advised me that I
4 would not be considered a candidate for that
5 position.

6 Q. Did you ask him to consider you as a
7 candidate for the position?

8 A. Yes. And I felt that it was highly
9 inappropriate that I wasn't considered for the
10 position.

11 Q. And why was it inappropriate?

12 A. Because it was a natural progression, my
13 peer, Kathy Schoos in Warwick, had moved on to that
14 position. I was the only person left in that
15 office that had been there since its creation in
16 1973. I had the knowledge; I had demonstrated
17 certainly the abilities and I was fully capable of
18 handling that job.

19 Q. Did Mr. Anderson tell you why he was not
20 going to give you that position?

21 A. I don't remember his specific response,
22 other than he wanted to take his time, and there
23 was a general move in the company or a shift in the
24 past year-and-a-half to bring in a lot of outside
25 people. So I assume that had part of it to do with

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1 that, but -

2 Q. In all areas, not just Tulsa?

3 A. Well, mostly at the corporate level, yes.

4 Q. Okay. And who got that position?

5 A. Sharon Condello came here from Emeritus.

6 Q. I'm sorry?

7 A. She came here from Emeritus Life in

8 Nebraska.

9 Q. And is that to whom you currently report?

10 A. Yes, it is.

11 Q. Now, during this '96-'97 time period, did

12 you ever cease being a MetLife employee?

13 A. In - from my perspective, I didn't have a

14 job; I did not have a formal job title, and I

15 considered - I considered myself, one, to have

16 been dismissed from the position and, secondly,

17 what has happened is that even if they were going

18 to terminate me, they would have given me some

19 period of time to seek other employment, so I was

20 never certain what was going to happen, but from my

21 own state of mind, I had no job.

22 Q. But you were not terminated as an employee

23 of MetLife?

24 A. In the technical sense of the word, I was

25 not terminated.

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1 Q. Okay. You went through a period of time

2 where you did not have a job assignment, correct?

3 A. I did not have a formal position within

4 the company, -

5 Q. Okay.

6 A. - yes.

7 Q. Until the inforce, director of inforce

8 manager -

9 A. Yes.

10 Q. - position evolved?

11 A. Yes.

12 Q. What is the job of director of inforce

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13 management? What do you do?
14 A. I manage those two areas that I just
15 mentioned to you.
16 Q. "Conservation" being --
17 A. It has been a wide variety of initiatives
18 dealing with efforts to stop replacement of our
19 business by other companies, to conserve assets by
20 calling customers who have indicated they wish to
21 cash surrender their life insurance policies or
22 annuities; it has just been a whole revolving
23 series of programs.
24 Q. Do you have people reporting to you?
25 A. Yes, I do.

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1 Q. How many people report to you?
2 A. I have two subordinate managers and I
3 think the number is probably somewhere around 45 to
4 50 people.
5 Q. And those people process, are they
6 clerical types or are they --
7 A. No.
8 Q. -- professional types or are they --
9 A. The inforce management consists of some
10 basic what, if you want to call it, clerical-type,
11 phone-type work, --
12 Q. All right.
13 A. -- but also a lot of analysts and staff
14 and we are doing an awful lot of analysis relative
15 to the conservation replacement. The procedural
16 development area is certainly analysts... One of the
17 other areas that I failed to mention was, in
18 essence, something that we developed and which I
19 called technology support services, where we have,
20 on our own, embarked on some initiatives to enhance
21 the utilization of Lotus Notes and revamp our
22 entire procedural documentation process.
23 Q. Okay. Now, you received a performance
24 review in the inforce management from Mr. Anderson;
25 is that correct?

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1 A. That's correct.
2 Q. Let me see if I can find it.
3 MR. POOR: Why don't we go off the record
4 for a second.
5 (Certain documents were marked Deposition
6 Exhibits 35 and 36 for identification by the
7 reporter.)
8 Q. (BY MR. POOR) What was the review that
9 you received from Mr. Anderson for your 1997
10 performance?
11 A. "Generally effective."
12 Q. There are issues you had with it, I
13 presume.
14 A. Yes, there was.
15 Q. What were the issues you had with the
16 review?
17 A. Primarily, that I felt Mr. Anderson was
18 reacting to feedback that he was probably receiving
19 from Mr. St. John, and the fact that during the
20 course of the year some of the problems that he
21 alluded to I felt were in part due to the failure
22 on his part to fill the job in the office.
23 He had provided very little direction or
24 support in the course of the year to us and the
25 fact that he was holding me accountable for pieces

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1 of the organization that I had no responsibility
 2 for.
 3 Q. I am handing you what has been marked as
 4 Deposition Exhibit No. 35. Is that your response
 5 to Mr. Anderson's performance review?
 6 A. Yes, it is.
 7 Q. Okay. And there is a reference in there
 8 to the communication issue.
 9 A. Yes.
 10 Q. With Ms. Hornsby.
 11 A. Yes.
 12 Q. I am handing you what is marked Deposition
 13 Exhibit 36, which are a series of E-mails. Do you
 14 want to take a second and look at those?
 15 A. Yes.
 16 Q. As soon as your attorney finishes looking
 17 at it just let me know.
 18 MR. POOR: Oh, are you set?
 19 MR. RAYL: (Affirmative head nod).
 20 MR. POOR: Okay.
 21 Q. (BY MR. POOR) The exchange of
 22 communications, your words in your performance
 23 appraisal, and she discusses a valid developmental
 24 issue. Is that the series --
 25 A. Yes.

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1 Q. -- of E-mails we are talking about?
 2 A. Yes, it is.
 3 Q. And did you and Mr. Anderson go over, you
 4 know, that particular issue, in the context of your
 5 performance review?
 6 A. Yes, we did. I don't really think he
 7 understood other than the fact that Miss Hemerway
 8 chose to elevate it to Mr. St. John, who chose to
 9 make an issue out of it with Rich and he never
 10 attempted to discuss what the real situation was
 11 here that led to the exchange of communications,
 12 but my frustration showed in the communication, and
 13 I was willing to accept responsibility for that,
 14 because I found it is hardly justification for
 15 lowering an performance evaluation for the entire
 16 year considering some of the other accomplishments
 17 that had been done.
 18 Q. Okay. But I take it that one of the
 19 criticisms that Mr. Anderson had dealt with the way
 20 in which you communicated with Ms. Hornsby, the
 21 tone, the manner in which --
 22 A. He did not specifically single out the
 23 tone of the communication. I don't think the issue
 24 was with Miss Hornsby, at least, if it was, he
 25 never mentioned that, he just mentioned in general

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1 that this had, in essence, made Stan irate and that
 2 he really approached it from that standpoint, that
 3 it allegedly had upset some people.
 4 But if Theresa had more of a problem with
 5 it, she could have spoken to me directly as we are
 6 in the same office, or her director, Jim Judd could
 7 have spoken to me. I was trying to make a point
 8 relative to the problem some of the people under
 9 her management were creating and that she needed to
 10 address.
 11 Q. And you agreed with Rich that the point
 12 could have been made perhaps differently?

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13 A. Yes, I did.
14 Q. Okay. Other than the one sort of fleeting
15 conversation you have told me about with Rich
16 Anderson about not being considered for the vacated
17 Barbara Gardner position, did you have any other
18 conversations about what the process was, why you
19 were or were not going to be picked for the
20 position, why Miss Condello was or was not picked?
21 A. I don't know whether there was any further
22 discussion of it when Rich made the announcement or
23 not. I mean I did not like it, but I don't recall
24 having attempted to pursue it with Rich or with
25 within the company, I didn't see any point in that.

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1 Q. Okay.
2 A. As evidenced, I chose to pursue it with
3 the EEOC.
4 Q. And there was an operations manager
5 position posted –
6 A. Yes.
7 Q. – during this time period in '97?
8 A. '96.
9 Q. Okay. Who had held that position?
10 A. It was a new position as was a new
11 regional director of Human Resources; the only
12 difference there was I couldn't get a hold of the
13 original posting notice for that. But I felt the
14 manner in which those were being administered were
15 not consistent with company policy, –
16 Q. Okay.
17 A. – since I was excluded from being
18 considered.
19 Q. For either position?
20 A. For either position.
21 Q. With whom did you speak about – Both
22 positions were posted?
23 A. They were not posted openly; they were
24 posted within those organizations, even though they
25 were in the Tulsa office; they were not posted in

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1 the Tulsa office, and made available to Tulsa
2 employees; they were only made available to people
3 in either the IT organization or the Human
4 Resources organization.
5 Q. Okay. The Tulsa office at one point in
6 time was all one organization.
7 A. Yes, it was.
8 Q. Now, it's multiple organizations in the
9 same building.
10 A. Yes, it is.
11 Q. So, for example, the Teleservicing area
12 goes in one – it's in one organization, Ms.
13 Gardner is in a different organization, you are in
14 a different organization.
15 A. Human Resources –
16 Q. Human Resources is in a different
17 organization, so it is much more balkanized now
18 than it was a few years ago.
19 A. Yes.
20 Q. And how long did you report to Ms. Gardner
21 this '96-'97 time period?
22 A. Until just the end of '96, and the
23 beginning of '97, she took on her new position.
24 Q. Okay. So for a very limited period of
25 time?

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1 A. Yes, right.
 2 Q. And the operations manager and the
 3 regional director?
 4 A. Human Resources director.
 5 Q. Human Resources, were posted within those
 6 organizations?
 7 A. Yes.
 8 Q. And people outside of those organizations
 9 were not allowed to apply for --
 10 A. Yes.
 11 Q. -- that position?
 12 A. (Affirmative head nod).
 13 Q. Not just Jim Rayl, but anyone outside --
 14 A. Right.
 15 Q. -- the organization?
 16 A. Right.
 17 Q. So in that respect, you were not singled
 18 out for those positions just --
 19 A. No, I was not.
 20 Q. Okay. And what particular policy,
 21 practice, contract do you believe was violated by
 22 that?
 23 A. By the general company policy that said
 24 that any employee who would be impacted as a result
 25 of MetLife Express would be considered for all

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1 openings. There's a variety of the company
 2 documentation on the policy basically that says all
 3 qualified candidates for a position should be
 4 considered.
 5 There was a special memo in the program
 6 from Anne Hayden in June of 1996 that dealt
 7 specifically with the MetLife Express, and the
 8 displaced employees as a result of that that
 9 outlined the type of consideration they were
 10 supposed to receive.

11 Q. Okay. Now, your complaint in this matter
 12 challenges, and let me make a list of the personnel
 13 items --

14 A. Sure.
 15 Q. -- at issue. One is your failure to get
 16 the site leader position in the '96 time period,
 17 correct?
 18 A. Yes.
 19 Q. Okay. One is that you have just told me
 20 the failure to be able to be considered for the
 21 operations manager and regional director.
 22 A. Yes.
 23 Q. In HR. One is the failure to be given the
 24 Ms. Gardner position, --
 25 A. Yes..

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1 Q. -- which was -- what was the title? I'm
 2 sorry, the title of that?
 3 A. Operations vice president or operations
 4 officer would probably be more appropriate.
 5 Q. Okay. In the '97 time period?
 6 A. Yes.
 7 Q. She left in --
 8 A. Yes.
 9 Q. -- at the end, --
 10 A. Right.
 11 Q. -- and Miss Condello --
 12 A. That's right.

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13 Q. -- came in '97.
14 A. (Affirmative head nod).
15 Q. Okay. Anything else?
16 A. With respect to just the positions, that's
17 the positions. Yes, there's a number of other
18 aspects of the complaint.
19 Q. We will go through the complaint --
20 A. Okay, fine.
21 Q. -- here. I am now talking about
22 employment transactions, in terms of job movement,
23 lack of job movement, promotions, demotions, --
24 A. Right.
25 Q. -- discreet job actions --

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1 A. Okay.
2 Q. -- as opposed to treatment.
3 A. Right.
4 Q. And we are going to come to the treatment
5 area in a minute.

6 A. Okay.
7 Q. Have I appropriately summarized the job
8 actions at issue in this case?
9 A. Yes.

10 Q. Okay. And I also want to characterize
11 what the issues are as it related to these
12 particular job actions.

13 The operations manager, regional director
14 of HR position, that is an allegation that MetLife
15 violated its policies, procedures, it's in your
16 terms contract --

17 A. Yes.
18 Q. -- with you, among others?

19 A. Yes.

20 Q. Okay. And the site leader position, I
21 know there are breach of contract allegations --

22 A. Right.
23 Q. -- with regard to all four of these
24 positions?

25 A. Right.

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1 Q. The operations manager and regional direct
2 I singled out --
3 A. Yes.
4 Q. -- because that is the issue with those
5 positions, correct?

6 A. Right.

7 Q. Let's talk about the site leader
8 position. In Count 1 of your complaint you allege
9 that you were relieved of your duties because of
10 your actions by which you obtained the status of --
11 quote -- whistle blower -- close quote. Are you
12 familiar with the allegation?

13 A. Yes.

14 Q. Okay. I am going to do this a little
15 backwards than I normally would do it. Let's put
16 aside the actions you took, we are going to cover
17 in a minute what you did, I know you have got
18 allegations about churning and AP --

19 A. Yes.

20 Q. -- and vanishing premiums. We will get
21 into that here in a second. What is it that leads
22 you to believe that whatever actions you took in
23 that respect played a role in the decision made to
24 not to give you this permanent site leader
25 position?

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1 A. It was my sense that my outspokeness on
2 those issues may have played a part and been a
3 reason why they did not want me in a position where
4 I would continue to have access and have – and
5 be – continue to be an advocate on those kinds of
6 issues because of the – what you are exposed to in
7 the call center.

8 Q. You had held the call center position for
9 about ten years?

10 A. Yes.

11 Q. And during that ten-year period, and again
12 we are going to go through this here in a bit, you
13 had been involved in those issues over that --

14 A. Yes.

15 Q. – I mean not all of the ten-year period,
16 but certainly a substantial period, –

17 A. Yes.

18 Q. – right?

19 A. (Affirmative head nod).

20 Q. In 1990 -- do you know who made the
21 decision not to appoint you as site leader?

22 A. With certainty, no, I do not.

23 Q. Okay. Certainly, it's your belief that

24 Mr. St. John played a role?

25 A. Yes.

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1 Q. If not the final role, certainly a key
2 role in it?

3 A. Yes.

4 Q. And do you have a belief as to the role
5 played by Dr. Friedewald and/or Mr. Gernas?

6 A. No, I don't – I don't know. I mean
7 there was – it goes beyond there, there was a
8 potential that Jack Moynihan played a role in
9 that. It seemed as though employees from
10 individual business were systematically eliminated
11 throughout the company in some of their positions
12 for which they would have normally been logical
13 candidates. But that's supposition and theory.

14 Q. Okay. From personal knowledge, you don't
15 know –

16 A. From personal knowledge, no, I do not.

17 Q. – who was involved in the decision, other
18 than perhaps Mr. St. John?

19 A. No, I do not.

20 Q. Did Mr. St. John say anything to you in
21 any way, shape or form about any actions you had
22 taken on public policy issues?

23 A. Since I considered the reasons he gave me
24 to be a total fabrication to begin with, I did
25 not – he did not say anything and I did not

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1 I consider that to be a justifiable basis for the
2 decision.

3 Q. I am not now asking you whether you agree
4 or disagree –

5 A. Fine.

6 Q. – with the basis of the decision, Mr.
7 Ray.

8 A. Okay.

9 Q. We will all work under the assumption that
10 you don't agree, okay?

11 A. Right, okay.

12 Q. My questions now are different.

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13 A. Okay.
 14 Q. Did Mr. St. John say -- I will work on the
 15 assumption because you don't believe the reasons he
 16 gave you, there must be something else at work.
 17 A. Fine.

18 Q. Okay? Is that a fair assumption?
 19 A. That's fair.
 20 Q. So you don't have to tell me that any
 21 more, we will work on that assumption.
 22 My questions now are a little different,
 23 because what I am trying to find out is whether
 24 anything affirmatively was done or said or
 25 communicated to you that leads you to that belief

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 1 other than the fact that you didn't get the
 2 position that you thought you should have gotten
 3 and didn't agree with the reasons given to you.
 4 Okay. Do you understand what I am asking you now?
 5 A. Okay. I think so. There was a -- there
 6 was a situation where I was called to the New York
 7 law department to discuss some of the material or
 8 one memo in particular that I had written, and so
 9 in trying to assess the situation, it seemed
 10 logical to me that perhaps it played a role in
 11 there somewhere, but, no, I don't know, nobody
 12 specifically told me that.

13 Q. Okay. When did that meeting occur?
 14 A. I believe it was in January of '96.
 15 Q. Okay. I would like to move back to Mr.
 16 St. John --
 17 A. Okay.
 18 Q. -- for a moment, if I could. That meeting
 19 occurred before Mr. St. John joined --
 20 A. Yes.

21 Q. -- MetLife?
 22 A. (Affirmative head nod).
 23 Q. Okay. During your tenure with Mr. St.
 24 John, albeit a short one, I take it he did not say
 25 or do anything specifically on this issue of --

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 1 I'll use the term "public policy" for shorthand,
 2 meaning your allegations in this case that you are
 3 raising issues of churning and accelerated
 4 premiums, vanishing premiums --
 5 A. Yes.
 6 Q. -- et cetera? Can we use that for
 7 shorthand purposes?
 8 A. Yes.
 9 Q. Okay. I take it Mr. St. John did not say
 10 anything to you one way or the other about public
 11 policy issues you were raising; is that a fair
 12 statement?
 13 A. That's a fair statement.
 14 Q. Okay. The same question for Dr.
 15 Friedewald, during your dealings with him, is it
 16 fair to say that during Met Express public policy
 17 issues and how the company should respond to them
 18 on the customer service side of it came up from
 19 various points in time --
 20 A. Yes.
 21 Q. -- during that process?
 22 A. Yes.
 23 Q. By not just you, but by others on the team
 24 as well?
 25 A. I was probably the primary spokesperson

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1 because most of the other team members did not come
2 from an area where they would have really
3 experienced it, other than to the extent that the
4 impact, the publicity and what the company went
5 through, the tremendous impact that it had on the
6 company.

7 Q. The allegations and the cases and the
8 publicity were not hidden from anybody, correct?

9 A. No, they were not.

10 Q. The people on the customer service team,
11 everyone knew this was a big issue —

12 A. Yes.

13 Q. — the company had to deal with, correct?

14 A. Yes.

15 Q. During those meetings, did Dr. Friedewald
16 ever criticize you on the way you were raising
17 those issues or talking about those issues, did he
18 dissuade you from raising those issues?

19 A. Not to my knowledge.

20 Q. Okay. Did he ever do or say anything that
21 led you to believe that he was unhappy with you for
22 having raised those issues or talked about those

23 issues as part of Met Express?

24 A. Not that I remember.

25 Q. Okay. Did Dr. Friedewald during his Met
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1 Express process and even subsequently during the
2 period of time you were in his organization ever
3 appear to be supportive of trying to get those
4 issues resolved and dealing with them in the
5 customer service organization?

6 A. I did not — I did not see him take any
7 measures or I do not recall him taking any measures
8 that I would term to be particularly supportive of
9 dealing with him, either.

10 Q. Okay. So it didn't appear he was neither
11 hostile nor enthusiastic on the issues, I mean one
12 way or the other?

13 A. Right.

14 Q. Okay. Did Dr. Friedewald ever do or say
15 anything that leads you to the belief that your
16 advocacy on the public policy issue was a factor in
17 the decision not to put you in the site leader
18 position?

19 A. No, I can't say that — that, other than
20 the extent to which he offered me no reason, and so
21 I don't know what his motivations were or what
22 conversations he may have had.

23 Q. Okay. How about the same answer for Mr.
24 Gemas?

25 A. Yes, he's — he was a non-entity in the
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1 whole process.

2 Q. Okay.

3 MR. POOR: This is a good time to break.
4 (Brief recess.)

5 Q. (BY MR. POOR) All right. Now, Mr. Rayl,
6 is it — although it is not specifically alleged in
7 the complaint, is it your contention that the
8 operations officer, failure to get the operations
9 officer, is it your contention that that decision
10 was also motivated by your role in advocating
11 public policy issues?

12 A. It is my contention that that may be a

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13 part of the decision. It is my contention, also,
14 that it is related to the call center issue, also,
15 or a suspicion.

16 Q. Was it related -- okay.

17 A. Pardon?

18 Q. There is a very specific allegation in the
19 complaint that you failed to get the call center
20 job --

21 A. Right.

22 Q. -- because of the public policy issue.

23 A. Okay.

24 Q. Okay? And that's fine, we just talked
25 about that, we are going to cover some of the

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1 public policy documents here in a couple of
2 seconds.

3 A. Okay.

4 Q. What I am simply trying to understand, is
5 there a similar, and I will address it to your
6 attorney or to you or I don't really care, is there
7 a similar allegation with regard to the operations
8 officer position? I just need to know whether I
9 need to cover it or not..

10 MR. RAYL: Yes. Yes, I think that it
11 could have been pled -- I don't know if I spelled
12 it out in the complaint right now. I can't
13 recall.

14 MR. POOR: It is not alleged in the
15 complaint.

16 MR. RAYL: Okay.

17 MR. POOR: And that's why I am asking the
18 question.

19 MR. RAYL: Right now, no, I guess if I
20 didn't allege it in the complaint.

21 THE WITNESS: Well, I mean it may or may
22 not play a part in that; it's a possibility, I
23 think, if you want to cover it, cover it.

24 Q. (BY MR. POOR) Okay. Do you know who made
25 the decision to -- can we refer to this as the

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1 Gardner or Condello, to fill the Gardner position?

2 A. My belief is that that decision was not

3 totally in Mr. Anderson's hands.

4 Q. What is the basis for that belief?

5 A. Simply that there seems to be -- well,
6 partially because I don't know exactly how things
7 work at that level, but I have never perceived
8 where any individual would be able to make a
9 decision of that -- on something like that totally
10 on their own without having to get some approval or
11 have some discussion with somebody superior to
12 them, to a point an officer of the company.

13 Q. But you don't know who might have been?

14 A. No.

15 Q. You have no idea who was involved in the
16 decision?

17 A. No, I do not.

18 Q. Did anyone ever say or do anything to you
19 that led you to believe that these public policy
20 issues played a role in the decision not to give
21 you the position?

22 A. Only to the concern expressed by the law
23 department, which I assume was -- was known at the
24 senior levels of individual business, that it may
25 have played a part in it.

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1 Q. This is that meeting with the attorneys in
 2 January of '96?
 3 A. Yes.
 4 Q. Okay. We will hold on that. Do you have
 5 any basis, do you have any personal knowledge as to
 6 whatever was communicated in that meeting was
 7 communicated to anyone else in MetLife?
 8 A. The meeting was precipitated by a memo I
 9 wrote to CMO members. No, I do not have any
 10 specific knowledge that --
 11 Q. It went beyond --
 12 A. No.
 13 Q. -- the legal organization?
 14 A. No.
 15 Q. Okay. Now, one of your allegations is you
 16 had a history, and I will quote here, "history of
 17 reporting violations."
 18 A. Yes.
 19 Q. Including violations, churning and
 20 accelerating premiums, vanishing premiums, which we
 21 have sort of generically referred to as "public
 22 policy."
 23 A. Yes.
 24 Q. I will now be more specific. It's those
 25 issues that we are now talking about in terms of

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1 public policy, the accelerated payments, the --
 2 A. Yes.
 3 Q. -- vanishing premiums, the churning
 4 allegations, correct?
 5 A. Yes.
 6 Q. And those are problems that obviously
 7 there was general publicity with regard to issues
 8 raised against MetLife and other insurance
 9 companies by various lawsuits, insurance
 10 commissioners, et cetera. I assume it was brought
 11 to your attention in that respect like every other
 12 MetLife employee, but it was also, I take it,
 13 brought to your attention to by customers who would
 14 call in to the call center organization, raising
 15 issues?

16 A. My efforts started long before MetLife was
 17 the subject of investigation and litigation on
 18 those issues.

19 Q. All right. Now, I am going to mark a
 20 number of documents here that you produced to us
 21 not necessarily to go over them in any great
 22 specificity, --

23 A. Okay.

24 Q. -- but for you to help me identify and
 25 understand which ones you think fall in this

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1 category.
 2 A. Sure.
 3 (Certain documents were marked Deposition
 4 Exhibits 37 through 43, inclusive, for
 5 identification by the reporter.)
 6 THE WITNESS: Okay.
 7 Q. (BY MR. POOR) What I am interested in,
 8 tell me which groups reflect your history of
 9 reporting violations in obtaining the status of
 10 whistle blower, as alleged in Paragraph 43, so we
 11 can talk about those without talking about the ones
 12 that --

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13 A. Okay.
 14 Q. — fall outside.
 15 A. No, 40 is outside.
 16 Q. Okay. Let me set that up here.
 17 A. This is background, this is really
 18 background information, not specifically the
 19 documents.
 20 Q. Okay. That's 42. Okay.
 21 A. There is a whole collection missing on
 22 complaints by --
 23 Q. Okay.
 24 A. All right.
 25 Q. I thought I had pulled all the ones you
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1 had produced that had some label of --
 2 A. Well, if files were together, I have
 3 actually got those files if you want to look at
 4 them.
 5 MR. RAYL: Could this file over here have
 6 any, Mr. Poor?
 7 (Handed to counsel.)
 8 MR. POOR: Okay.
 9 (A certain document was marked Deposition
 10 Exhibit 44 for identification by the reporter.)
 11 Q. (BY MR. POOR) I thought it was the same
 12 file, to be honest with you, but --
 13 A. Well, wait a minute, they might be still
 14 two separate files. Yes, they are different.
 15 Q. Okay.
 16 A. 41 is not, but there is a whole series of
 17 files or two files dealing with complaints that are
 18 not here.
 19 Q. Okay.
 20 A. Subject to policyholder complaints.
 21 Q. And this one which is just external,
 22 labeled as simply "external newspaper articles," --
 23 A. Right.
 24 Q. — and things?
 25 A. Right.

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1 Q. I believe there is one more set of
 2 documents around. It should have been two files,
 3 separate files, one would have been stuff I
 4 specifically wrote and another one is all dealt
 5 with policyholder complaints.
 6 A. I can give you the numbers if that would
 7 help.
 8 Q. If you can give me the numbers, maybe I
 9 can --
 10 A. Yes. Oh, I don't believe it.
 11 MR. POOR: Why don't we go off the record
 12 now.
 13 THE WITNESS: 1377 — no, wait a minute.
 14 1414 to 1491 was the primary file related to
 15 policyholder complaints.
 16 (Discussion off the record.)
 17 Q. (BY MR. POOR) Okay. So the groups of
 18 documents that reflect the allegations in Paragraph
 19 33 about your advocacy of public policy issues are
 20 Deposition Exhibit 44, which are Bates stamped
 21 01193, Deposition Exhibit 43, Bates stamped 01377
 22 to 01413, Deposition Exhibit 37, Bates stamped
 23 01112 to 01153.
 24 A. Some of these are related documents, but
 25 they are part of that.

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1 Q. Right. Exhibit 39, 01154 through 01192 –
 2 A. 38.
 3 Q. – which is Exhibit 38, and what will be
 4 marked when we make a copy as Deposition Exhibit
 5 45, Bates stamped PL-01414 through -01491.
 6 A. Yes.
 7 Q. Okay. Some of these are documents
 8 authored by you; some of them are complaints bought
 9 to your attention, for example, some are letters
 10 from lawyers, some are –
 11 A. Right.
 12 Q. – complaints from some individuals?
 13 A. Supporting the issue, yes.
 14 Q. Right. For example, what is Exhibit 38.
 15 A. That was – it was one of the few
 16 documents that I submitted that really was not
 17 written to a superior; it was a document I authored
 18 illustrating how we were trying to have the CSRs,
 19 at that time they were CSRs, deal with these issues
 20 and the publicity related to the churning
 21 allegations and some of those activities.
 22 Q. Okay. And this went to CSRs, trainers and
 23 resource assistants?
 24 A. Yes.
 25 Q. And you authored this document?

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1 A. Yes, I did.
 2 Q. Okay. Now, on any of the documents
 3 covered in these various deposition exhibits, did
 4 you receive criticism, feedback that was critical?
 5 A. Not – I'm trying to think – other than,
 6 for example, there's one situation in there where I
 7 tried to explain the AP problem. It went to
 8 someone in marketing, who turned around and tried
 9 to say it didn't exist, and I went back and proved
 10 to one of his own branch managers was having a
 11 problem. I didn't receive direct criticism for
 12 that, with the exception of being criticized, if
 13 you will, by the law department for my persistence
 14 in trying to draw attention to these issues.
 15 Q. And that's in this meeting?
 16 A. That's in the meeting, yes.
 17 Q. Okay. We will come back, put aside that
 18 meeting.
 19 A. Okay.
 20 Q. Is that meeting the only time that you
 21 have viewed yourself as having been criticized over
 22 raising these issues?
 23 A. I guess I don't know where to draw the
 24 fine line between criticism and where people
 25 clearly indicate they don't want to hear it any

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1 more, but –
 2 Q. There's a very clear line in my mind, let
 3 me explain to you what it is. I understand that
 4 sometimes you view this as falling on deaf ears.
 5 A. Yes.
 6 Q. You understand.
 7 A. (Affirmative head nod).
 8 Q. And sometimes you will have people say,
 9 "You know, Jim, just go talk to somebody else, I
 10 don't want to hear it any more."
 11 A. (Affirmative head nod).
 12 Q. Okay. I'm more interested in anything

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13 anyone did affirmatively to say to you, "it's a bad
14 thing that you are raising this, don't do this any
15 more, you are in trouble for" – when I say
16 criticism, that's what I am talking about in that
17 line?
18 A. No, I don't recall any specific criticism.
19 Q. Okay. Now, which one of these documents
20 generated a meeting with lawyers?
21 A. That one.
22 Q. Now, you have handed me documents that
23 Bates stamped PL-01199 through -01202.
24 A. Yes.
25 MR. POOR: Why don't we mark that
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1 separately just for the purposes –
2 THE WITNESS: Sure.
3 MR. RAYL: (Affirmative head nod).
4 MR. POOR: – of keeping it straight
5 Would you mark this as 46.
6 (A certain document was marked Deposition
7 Exhibit 46 for identification by the reporter.)
8 Q. (BY MR. POOR) This is a memo you wrote to
9 Mr. Lynch in November of '95, expressing your
10 concern over the field release on AP arrangements?

11 A. Yes.
12 Q. Okay. What happened after you sent that
letter to Mr. Lynch?
13 A. I did get a note from him, I believe
14 that's the one that he responded to, said it was of
15 interest, asked for some statistics, but it also
16 was copied to Mr. Tweddie, who was a CMO member,
17 but it was sometime – I'm trying to keep my years
18 straight – no, I guess it was relatively quickly,
19 December-January, somewhere in that time frame I
20 received a call from the law department and they
21 wanted to know when I would be in New York and that
22 they would like to discuss AP with me.
23 Q. Okay. Who did you get the call from?
24 A. It was either Mr. Finnegan or – I believe

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1 it was Kevin Finnegan.
2 Q. Who is an attorney in the law department?
3 A. Yes.
4 Q. Okay. And then you did have a meeting
5 with the lawyers in the law department?
6 A. It met with Kevin Finnegan and Robert
7 Nostramo.
8 Q. Okay. Between sending the letter and your
9 meeting, did you have any other communication with
10 Mr. Lynch or anyone else in the organization on
11 this issue other than perhaps asking for
12 statistics?

13 A. Most of what I wrote on this issue started
14 in 1992. No, I don't –
15 Q. I meant not on this issue, necessarily,
16 but specifically in response to this memo?
17 A. No.

18 Q. The next thing substantively really that
19 happened was the meeting with the attorneys?
20 A. Yes, it was.

21 Q. Okay.
22 MR. POOR: I am going to ask him about the
23 meeting with the attorneys for the purposes of the
24 deposition, Brian. Obviously, you know it's our
25 position that this is a privileged communication,
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- 1 we need an agreement in order to save time, by
- 2 asking him I am not waiving our position.
- 3 MR. RAYL: Correct.

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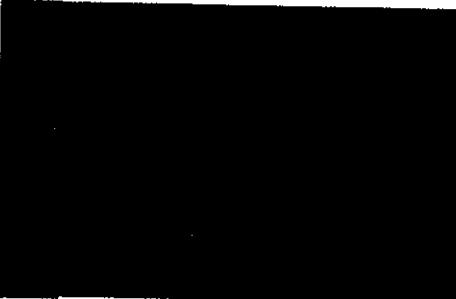
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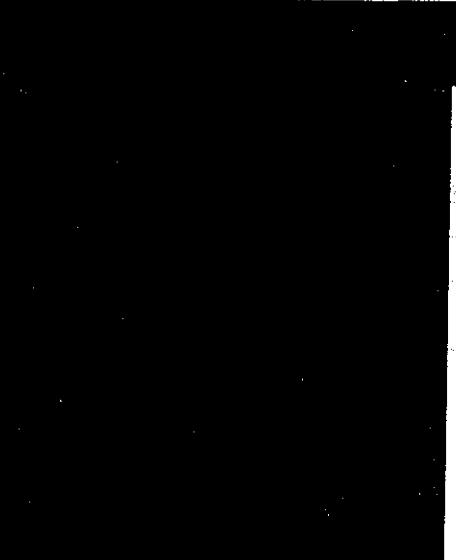
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25 Q. Okay. Anything else, Mr. Rayl, that
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1 happened or that people said to you or wrote to you
2 or communicated to you that, other than what we
3 have covered, that leads you to the belief that
4 your involvement in these public policy issues was
5 a factor in these personnel decisions we have been
6 talking about?

7 A. I think the fact that I have been so
8 persistent on those issues with so many people over
9 so much time, that – that there is a strong
10 possibility that it's in there. I mean I think
11 that – there's – in other words, very few people
12 at the senior level of the company, and
13 particularly, when we have – we had investigations
14 and everything going on, could dare tell me, "oh,
15 don't ever tell us there's a problem," nobody could
16 say that to me.

17 Q. And nobody did?

18 A. Nobody did. So I mean nobody was going to
19 tell me to stop or whatever, but clearly they
20 didn't act on it, either. So –

21 Q. All right. Have we now covered all of the
22 facts that leads you to believe that your public
23 policy actions affected these employment
24 decisions? I don't mean to infer there's more; I
25 just want to make sure we have covered them.

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1 A. Basically, I believe they could have been

2 a consideration in the actions against me, yes.

3 Q. Okay. Now, your second allegation is that
4 MetLife breached its contract with you in I guess

5 all four of these jobs.

6 A. Yes.

7 Q. Okay.

8 (Certain documents were marked Deposition

9 Exhibits 47 through 50, inclusive, for

10 identification by the reporter.)

11 Q. (BY MR. POOR) Mr. Rayl, I have handed you
12 documents marked Deposition Exhibits 47 through 50.

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13 A. Yes.
14 Q. And these are copies of the various
15 company handbooks and policies that relate to the
16 posting program that you produced to us, correct?
17 A. Right.

18 Q. Okay. Now, with each of these, and I
19 apologize, I didn't write down the numbers on mine,
20 so if I get the numbers wrong, —
21 A. That's fine.

22 Q. The exhibit that is the Anne Hayden
23 memo, —
24 A. Hayden is 47.

25 Q. Okay. That was sent to all MetLife
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1 employees?
2 A. Yes.
3 Q. Okay. The other documents, the two
4 documents called Manager's Guide, —
5 A. Yes.

6 Q. — are ones you received in your capacity
7 as a manager —
8 A. Yes.

9 Q. — at MetLife?

10 A. (Affirmative head nod).

11 Q. Because you had to apply the job
12 posting —
13 A. Yes.

14 Q. — procedure over the course of your
15 employment as well?

16 A. Right.

17 Q. And these sort of help guide you in how to
18 do that, correct?

19 A. Yes.

20 Q. That's what you used them for, anyway,
21 correct?

22 A. Yes.

23 Q. And the one is called "MetLife - Your
24 Employee Handbook"?

25 A. Yes.

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1 Q. Is the handbook given to all employees?
2 A. Yes.
3 Q. Now, tell me in what way, we can take
4 these position by position, —
5 A. Okay.
6 Q. — let's start with the easiest one, the
7 operation manager and the regional director of
8 Human Resources. Can we talk about those two
9 together?

10 A. Yes.

11 Q. Okay. What is it about the policies that
12 was violated by the way MetLife handled that
13 posting or failure to post?

14 A. Would you object if I — in other words, I
15 have those — the specific job posting issues and
16 the excerpts from these manuals documented in a
17 file which I gave you that went with my EEOC
18 complaint.

19 Q. Okay.

20 A. That I think spells them out a little more
21 clearly, but —

22 Q. Okay.

23 A. — it might be easier to go through them
24 that way.

25 Q. Sure. Let me pull it out for you, Mr.
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1 Rayl. That's fine with me.
2 (A certain document was marked Deposition
3 Exhibit 51 for identification by the reporter.)
4 Q. (BY MR. POOR) I am handing you Deposition
5 Exhibit No. 51. Okay. And those are the materials
6 you submitted to or received from the EEOC,
7 correct?
8 A. Yes. Okay. I have the MetLife job
9 posting program, program rules, guidelines, HR
10 policies.
11 Q. Please give me the Bates number?
12 A. The Bates number is 00390 through 00394.
13 Q. All right. I got it. Okay.
14 A. Okay. Basically, my complaint is based on
15 the statements in the policy I believed it
16 interpreted it and administered it. So if you want
17 to take some of these excerpts or go through that
18 Q. Well, let's focus specifically --
19 A. Okay. Let me find the one that I feel.
20 Q. -- on -- let's talk about the operations
21 manager an regional director of Human Resource
22 position, if I could. I think that's the --
23 A. Okay. Just for the sake -- let me look
24 at --
25 It talks about the Anne Hayden memo, which

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1 is your Exhibit 47, "Jobs will be posted in all
2 administrative offices within a region. Employees
3 whose positions are declared excess will post for
4 jobs in the same manner and at the same time as all
5 other employees." And it talks about the
6 applications. There is -- I am going to have to go
7 through some of these. I mean it was the general
8 company policy that they should seek the most
9 qualified candidate for every position that's
10 posted, was my primary concern or belief.

11 Q. That's fine, I just want to understand

12 what provision --

13 A. In other words, that there was -- there
14 was nothing that indicated that when particularly
15 there were offices affected by the MetLife Express
16 were those initiatives that when they posted the
17 positions in those offices, there would be any
18 limiting of the candidates.

19 Q. Okay. So let me make sure I understand
20 this. With regard to those two jobs, were they
21 filled internally?

22 A. One was and one was filled from another --
23 with a person from another location.

24 Q. Okay. But both from current MetLife
25 employees?

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1 A. Yes, yes.
2 Q. Okay. And as I understand why you think
3 MetLife violated its policy was that there is
4 nothing in here that says posting could be limited
5 to people within a functional organization, so
6 there is nothing that says they can limit it. And
7 you believe, I take it, you were qualified for
8 those jobs.

9 A. Yes. There's -- the company stated
10 promotion policy was in there and in every staffing
11 situation it is company policy to select the best
12 qualified candidate for the position. They can't

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13 do that if they don't let them be considered.
14 Q. Who got those two jobs?
15 A. Carl Bogler, who was the incumbent HR
16 manager, got the position for HR and Maureen Ortiz
17 from Wichita got the IT operations manager's job.
18 Q. And you believe you were better qualified
19 for the positions than those two individuals?
20 A. Yes, I do.

21 Q. What makes you better qualified for that
22 position than Mr. Bogler?
23 A. Bogler, B-o-g-l-e-r. I'm -- my experience
24 as an HR manager in the past and many of the things
25 I had done there was -- I was a very strong HR

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1 manager.
2 Q. He was the incumbent --
3 A. Yes.
4 Q. -- in that position, so he had been
5 performing that job or a similar --
6 A. Yes.
7 Q. -- scope job. And was it your perception
8 he was not doing well in that position?
9 A. It was my perception that -- I should have
10 been at least allowed to post and be considered for
11 that job.

12 Q. Okay. Other than the fact that you had
13 held the manager HR position, thought you had done
14 well in that position, was there anything else that
15 leads you to believe that you were better
16 qualified --

17 A. Yes.
18 Q. -- for that job than Mr. Bogler?
19 A. Yes.

20 Q. What else?
21 A. My level of performance versus his level
22 of performance, and I --
23 Q. And how do you know his level of
24 performance?

25 A. We are living with it.
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1 Q. You need to be more specific than that.
2 A. Well, I don't want to get into some of the
3 issues there, but there have been a number of HR
4 issues arise and we are currently engaged in an HR
5 situation with one of our employees that had he
6 handled it appropriately, it would not now be where
7 it is sitting. I mean there's a -- that's another
8 whole --

9 Q. Well, I am simply trying to understand --
10 A. Okay.
11 Q. -- your perception of what skills or
12 qualifications he lacked in that position that
13 makes you believe you are better qualified than he.
14 A. Well, it really doesn't matter whether I
15 believe I am or not. That's my personal opinion,
16 but the fact is I didn't even get an opportunity to
17 put that forward.

18 Q. I understand, but stay with me because it
19 matters to me. I am just simply trying to
20 understand, if you had been considered for the job,
21 I assume your position is you believe you should
22 have been selected over Mr. Bogler, or maybe I am
23 misunderstanding.

24 MR. RAYL: I believe our complaint alleges
25 that they breach the contract simply by not letting
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1 him post, -
2 MR. POOR: That's right.
3 MR. RAYL: - not giving him the job.
4 MR. POOR: But then there is a whole set
5 of questions as well, is that so what, he wouldn't
6 have gotten the job or so what, he would have
7 gotten the job. So I do think that next
8 question -

9 MR. RAYL: Okay.
10 MR. POOR: - has a relationship to that.
11 MR. RAYL: I have no objection to him
12 answering it, other than to the extent that it, you
13 know, calls for a legal conclusion.
14 MR. POOR: Yes, I am not trying to get a
15 lot of detail; I just want to understand the
16 comparable -

17 Q. (BY MR. POOR) I just wanted to understand
18 if you had been considered, why do you think they
19 should have given it to you over Mr. Bogler.

20 A. Because I think my track record and - in
21 terms of what I did when I was an HR manager and my
22 accomplishments, my knowledge, my willingness to
23 deal with the difficult issues would have put me
24 ahead of him.

25 Q. All right. The same question for the
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1 operations manager. And I am sorry, I don't
2 remember the name of it person.

3 A. It's Maureen Ortiz.

4 Q. Maureen Ortiz?

5 A. Yes.

6 Q. This is over in the IT, -

7 A. Right.

8 Q. She came from the IT organization?

9 A. Yes, she did, but in an unrelated area to
10 what she's doing now.

11 Q. Okay. What is it about her that leads you
12 to believe you are better or you that leads you to
13 believe you are better qualified than she is?

14 A. Well, one in that she's managing an
15 operation that is - she's not been in the
16 environment with respect to having to have an IT
17 organization supporting an administrative
18 operation; she was in a computer center in
19 operations. What was prior a data communications
20 operation has reported to me in the past. I have
21 managed it before. I certainly know the
22 administrative and customer issues. I mean there's
23 no question in my mind I could be effectively
24 managing that operation.

25 Q. Okay. Was there anyone else, to your
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1 knowledge, outside of those functional
2 organizations allowed to apply for those jobs?

3 A. Not to my knowledge.

4 Q. Okay. With regard to the - I think we
5 have referred to it as the "Gardner position," the
6 officer -

7 A. Right.

8 Q. - position. That was not posted,
9 correct?

10 A. That was not posted.

11 Q. Is there an obligation to post that level
12 position?

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13 A. No, there is not.
14 Q. What is it about the way -- and maybe this
15 is not one of the allegations, was there something
16 about the way that vacancy was filled that you
17 believe violated the company's posting program or
18 policies?

19 A. It would not be related to the posting
20 program, per se, since it was not posting. I feel
21 that it was, as I guess I have alleged, a
22 discriminatory action for not -- for not
23 considering me for that position.
24 Q. Right. And I am going to get to the age
25 discrimination here in a second.

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1 A. Okay.
2 Q. But we are right now on the breach of
3 contract allegation, and maybe I have got this job
4 in the wrong category.

5 A. No, I don't --
6 THE WITNESS: Was there --
7 Q. (BY MR. POOR) There is no allegation on
8 that in this complaint?

9 A. I don't think there is, no, that I --
10 okay.

11 Q. I don't want to do this again, Mr. Rayl.

12 A. Okay.

13 Q. I am just trying to confirm that.

14 A. That's okay.

15 Q. Okay. Now, let's back up to the --

16 A. Okay.

17 Q. -- filling of Ms. Hemenway, --

18 A. Okay.

19 Q. -- putting Ms. Hemenway in the position.

20 A. Okay.

21 Q. The -- and I think I understand your
22 position with regard to the posting. It was that
23 the consideration of outside candidates for the
24 position should not have happened, period.

25 A. No.

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1 Q. No?
2 A. My position on posting is not --
3 Q. I will not put words in your mouth.

4 A. Okay.

5 Q. Tell me in what way MetLife violated its
6 -- quote -- contract -- close quote -- with you?

7 A. One, that it had a posting program in
8 place and at the time the candidates went through
9 that process. There were external candidates which
10 were considered, which the posting program itself
11 says you only do that when it appears that you
12 can't find a qualified candidate internally.

13 There was an abundance of internal
14 candidates, but my issue with that was the fact
15 that the posting process had been completed, the
16 interviews had been completed, and that was -- the
17 whole process was violated by the fact that another
18 outside candidate came in who was not part of the
19 original posting, was not part of the original
20 outside search, had nothing to do with that.

21 Mr. St. John had the option to repost the
22 position. He did that on the traffic manager job.
23 He did not do that on the site leader job.

24 Q. Where in the policies does it say that you
25 cannot add candidates later on in the process? I

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1 understand your position on the external
 2 candidates, but my question is now a little bit
 3 different. You say they violated the program by --
 4 A. Because there was a beginning and an
 5 ending date to the posting process.

6 Q. And where does it say that once the
 7 posting process is -- okay. Where does it say
 8 there is a beginning and ending, on the posting
 9 itself?

10 A. Yes.

11 Q. Okay.

12 A. There is a date at which the applications
 13 are supposed to be there.

14 Q. Okay. Whatever that date is. It was
 15 posted on April 5th, let's assume it's --

16 A. It closed April 12th.

17 Q. Okay. It closed April 12th. So you had a
 18 week to respond. Is it your position that only
 19 external candidates that were found during that
 20 week period could be considered for the job?

21 A. That, combined with the fact that Mr.
 22 Friedewald indicated there would not be any
 23 additional interviews; we would not be
 24 reinterviewed for the position, which would
 25 indicate that it was not being thrown open again.

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1 Q. Put aside what Mr. Friedewald said for a
 2 minute, because I am focusing now on --

3 A. Okay.

4 Q. -- you have alleged they breached these
 5 policies which you contend are contracts. And you
 6 have told me that you believe they did it by after
 7 the closing of the posting period, finding other
 8 external candidates. Is that a fair summary of
 9 what you have told me?

10 A. Yes.

11 Q. Okay. Now, my question --

12 A. That's part of it, and the fact that --
 13 but go ahead.

14 Q. That's the one I am focusing on for the
 15 moment. And if you can please show me in the
 16 policies where it says that, it would be a great
 17 help to me.

18 A. I don't know that it completely says with
 19 respect to the external candidates. The one thing
 20 it does say is when you should go for an outside
 21 candidate.

22 Q. I understand you believe there were
 23 internal candidates and even someone they found
 24 before April 12th that shouldn't have been
 25 considered?

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1 A. Right.

2 Q. I understand that. But you have also said
 3 that the subsequent finding of external candidates
 4 --

5 A. I don't know that the posting procedures
 6 significantly addressed the external candidates
 7 since it should be exceptional situations where
 8 they look at them, anyway, if, in fact, there was
 9 going to be a new search, then there should have
 10 been an obligation on the part of the company to
 11 notify the internal candidates that that was taking
 12 place.

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13 Q. And where does it say that?
14 A. It doesn't say that, other than the fact
15 that they shouldn't have been looking at external
16 candidates to begin with.

17 Q. Okay. It's your belief that that's the
18 way they should have handled it?
19 MR. RAYL: If you don't know for a fact
20 that it doesn't say that, don't say then if it
21 doesn't say that.

22 THE WITNESS: Okay. All right. I would
23 have to reread the entire policy.
24 MR. RAYL: Yes.
25 A. I don't know.

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1 Q. (BY MR. POOR) Okay. In what other way
2 did the company violate its policies by hiring Miss
3 Hemenway?

4 A. She's a lesser qualified candidate.

5 Q. Can you tell me what you know about her
6 background?

7 A. I've seen her resume, which was part of
8 the production. I know some of what has transpired
9 since she has been appointed.

10 Q. Let me focus on what you knew as of the
11 time she came in and you went out of that job.

12 A. There's no way that anyone was more
13 qualified to fill that job than me.

14 Q. I understand that you could have been
15 somebody from on high, I understand that; I am not
16 talking about your -- you have got lots of
17 documents, we have talked about your
18 qualifications.

19 A. Right.

20 Q. That isn't my question. My question is
21 what did you know about Miss Hemenway?

22 A. I didn't know a thing about Miss Hemenway.

23 Q. Okay. And what you have learned
24 subsequently is either through documents produced
25 in this case or issues that have arisen in the call

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1 center --

2 A. Yes.

3 Q. -- since she came on?

4 A. Yes.

5 Q. Okay. Have we now covered all the ways in
6 which you believe the company violated its policies
7 by hiring Miss Hemenway?

8 A. I don't know that from a legal standpoint,
9 and I will leave that to my attorneys to decide in
10 going through these documents whether there are
11 other aspects of these that constitute some other
12 or different contractual obligation on the part of
13 the company.

14 Q. But as you sit here today, we have covered
15 everything that you believe happened?

16 A. In general terms, yes.

17 There's evidence that the company did not
18 do some of the internal applicant tracking that
19 they were supposed to do, since they couldn't
20 produce the documents. So, no, I don't know
21 what -- I don't know that we have covered all of
22 those issues.

23 Q. Okay. Any other ways in which the company
24 violated its contractual obligations to you, other
25 than these four positions that we talked about?

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1 MR. RAYL: Leave that to me.
 2 THE WITNESS: Okay.
 3 A. I don't know.
 4 Q. (BY MR. POOR) As you sit here today, we
 5 have covered everything you can think of sitting
 6 here today?
 7 A. Sitting here today.
 8 Q. Okay. Now, you also claimed that age was
 9 a factor in the failure to select you as site
 10 leader.
 11 A. Yes.
 12 Q. Okay. And I understand that Miss Hemenway
 13 was younger than you.
 14 A. Yes.
 15 Q. Okay. And I also understand your position
 16 that you are better qualified for the job than she?
 17 A. Yes.
 18 Q. Okay. We don't need to cover either of
 19 those two points.
 20 A. Okay.
 21 Q. Is there anything else that leads you to
 22 the belief that your age was a factor in the
 23 decision not to select you for that position?
 24 A. The active discrimination itself, I don't
 25 know. I mean we are getting into what will

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1 constitute a legal finding of age discrimination.
 2 Did somebody tell me I was too old for the job?
 3 No, nobody told me I was too old for the job.
 4 Q. Did anybody tell you they wanted somebody
 5 young in the job, or did anybody make any kind of
 6 remarks that had an age bias as related to this job
 7 selection?
 8 A. No.

9 Q. Okay. I am not asking you for a legal
 10 conclusion, ~

11 A. Right.

12 Q. — Mr. Rayl, the lawyers will fight about
 13 that; I am asking you for what leads you to the
 14 belief in your own mind that age was a factor. As
 15 I said, I know the allegation that she was younger
 16 and you were more qualified, and I am simply asking
 17 if there is anything else. Because it is my job to
 18 cover —

19 A. Right.

20 Q. — everything I can.

21 A. (Affirmative head nod). No.

22 Q. Okay. Now, the positions of operation
 23 manager and regional director of HR, I guess, are
 24 at issue in the breach of contract, correct? Since
 25 no one else was allowed to post, there is not an

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1 age or retaliation allegation?
 2 A. No.
 3 Q. Is there an allegation of age
 4 discrimination as it relates to the Gardner
 5 position?
 6 A. My own feeling is that when the
 7 circumstances — when the circumstances come out,
 8 that's for a jury to decide as to whether age was a
 9 factor or — I don't know.
 10 Q. I am not asking you for a conclusion; I am
 11 just asking whether it is an issue in this case
 12 that I need to cover. It is not alleged in the

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13 complaint.
 14 MR. RAYL: It is not alleged in the
 15 complaint and at this time we are not alleging it,
 16 not intending on alleging it.
 17 MR. POOR: Then I don't have to cover it.
 18 THE WITNESS: Thanks.
 19 MR. POOR: Fair enough.
 20 Q. (BY MR. POOR) Now, Mr. Rayl, one of the
 21 statements you made earlier when we were talking
 22 about the public policy retaliation —
 23 A. Uh-huh.
 24 Q. — claim, was that employees from
 25 individual business were systematically

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1 eliminated. Do you recall telling me that?
 2 A. Yes.
 3 Q. Okay. This was in the time frame of
 4 the — this is in the '96-'97 time frame we are
 5 talking about?
 6 A. Yes.
 7 Q. Okay. Who are you talking about?
 8 A. I don't remember specifically except that
 9 it seemed that a number of individual business
 10 people who were in various parts of the — quote —
 11 business services group organization or should have
 12 been in there didn't wind up there. They either
 13 were moved elsewhere, didn't have a job or
 14 whatever, that part of the organization seemed to
 15 draw all of its people from other parts of the
 16 company; in areas where having someone from
 17 individual business would have been a clear asset
 18 to what they were doing. That's it.
 19 Q. So you were not involved in that
 20 decisionmaking process, —
 21 A. No.
 22 Q. — I presume.
 23 A. (Negative head shake).
 24 Q. And you don't have any firsthand
 25 knowledge —

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1 A. No.
 2 Q. — as to why the decision —
 3 A. It was an observation, that's all.
 4 Q. Okay. What is it about that
 5 observation — you raised it in the context in
 6 saying on the public policy side.
 7 A. I don't know that it was on the public —
 8 if it was being associated with the public policy,
 9 I don't think that was the intent.
 10 Q. Tell me what the intent was.
 11 A. Other than it was just part of what was
 12 happening in the BSG organization as the outgrowth
 13 of MetLife Express, as the outgrowth of the
 14 implementation of many of the MetLife Express
 15 initiatives.
 16 Q. Okay. Now, the remaining count of the
 17 complaint that we haven't talked about is your
 18 allegation that the conduct of Mr. St. John and
 19 other employees in MetLife during 1996 constituted
 20 intentional infliction of emotional stress.
 21 A. Yes.
 22 Q. Okay. And can you please tell me what
 23 conduct we are talking about here. What did they
 24 do? You can list it for me, if we have covered it,
 25 I don't want to cover the details again.

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1 A. No. The conduct was that after my
 2 extensive involvement in MetLife Express, after my
 3 working relationship with Dr. Friedewald, after the
 4 prolonged situation in the site leader selection,
 5 the fact that I was given no indication whatsoever
 6 at any time that there was anything lacking in my
 7 qualifications or my consideration that Mr.
 8 Friedewald — or Dr. Friedewald was very aware of
 9 my passion for what I was doing, my desire for that
 10 position; Mr. St. John was allowed to come into the
 11 company and for whatever reasons take an action
 12 that, in my opinion, the consequences — well, the
 13 consequences clearly were to inflict that distress
 14 on me and what I went through.

15 Q. Why do you believe it was clearly designed
 16 to inflict that type of distress on you?

17 A. Because if, in fact, there was — if, in
 18 fact, the organization was going to allow Mr. St.
 19 John to take that kind of an action against an
 20 employee like myself after what I had done and what
 21 I was contributing with no warning, with clear
 22 knowledge that it was going to be personally
 23 devastating to me, without the courtesy of someone
 24 else giving me some clue that — as to what might
 25 happen and then to abruptly on a given day pick up

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1 the phone and tell me that my job was being taken
 2 away from me; that's an unconscionable and
 3 intentional act, in my opinion.

4 Q. What is it that they should have done
 5 differently?

6 A. The minute — if, in fact, the
 7 organization, Dr. Friedewald or anybody else, was
 8 going to allow Stan St. John to select someone
 9 else, knowing the consequences, then somebody
 10 should have come out and had a personal
 11 conversation with me and worked out a solution
 12 where I came out of it unharmed, at least,
 13 monetarily, careerwise, and everything else.

14 I had invested my entire past ten years,
 15 my heart and my soul and they knew it, everybody
 16 knew it. And they knew what that would do to me.

17 Q. Other employees lost longtime jobs with
 18 MetLife, too, as part of MetLife Express; is that
 19 true?

20 A. They did not lose their —

21 Q. Is that true?

22 A. That's true.

23 Q. In fact, there are individuals in MetLife
 24 that lost their employment with MetLife, as part of
 25 MetLife Express; correct?

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1 A. That's true.
 2 Q. There are interim site leaders not
 3 selected as the permanent site leader, I can't
 4 remember that person's name, but it was one of them
 5 —

6 A. Ed O'Day went on to become implementation
 7 director. He was given a position in the
 8 organization.

9 Q. He did not maintain his position as site
 10 leader, correct?

11 A. Correct.

12 Q. Okay. When you moved out of the interim

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13 site coordinator, whatever the title was at the
 14 time, --
 15 A. Yes.
 16 Q. ~ was your pay cut?
 17 A. No, but --
 18 Q. Okay. You continued to receive bimonthly
 19 or monthly, whatever you receive, paychecks?
 20 A. The site leader position was posted at a
 21 higher level than what I was --
 22 Q. Mr. Rayl, I am asking some very specific
 23 questions.
 24 A. Okay.
 25 Q. Was your current rate of pay reduced?

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1 A. No, it was not.
 2 Q. Okay. Did you continue to receive
 3 paychecks during this period of time?
 4 A. Yes, I did, but I was on vacation.
 5 Q. Okay. Did anyone else other than Mr. St.
 6 John take acts against you that you believe were
 7 designed to inflict emotional distress?
 8 A. Certainly, Mr. Friedewald or Dr.
 9 Friedewald is implicated.
 10 Q. By at least allowing Mr. St. John --
 11 A. Right.
 12 Q. -- to find somebody else for the job?
 13 A. Right.
 14 Q. Okay. Is there anyone else or anyone
 15 other actions, failure to act that constitutes the
 16 intentional infliction, in your judgment?
 17 A. I guess I am not necessarily prepared to
 18 sit down here and go through everything that
 19 transpired and say whether there were or were not
 20 other things I considered acts of intentional
 21 infliction.
 22 Q. Well, that's the allegation in this case,
 23 Mr. Rayl.
 24 A. Well, that is the allegation.
 25 Q. I just want to know what they did.

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1 A. Well, there were -- well, the
 2 circumstances and all of those things associated
 3 with how that was handled constituted that count.
 4 Whether or not I can sit here and recite everything
 5 that I would classify in that category at this
 6 particular minute, I don't know, but we have
 7 covered the most of them.
 8 Q. Okay. Is there anything you can recall
 9 that we haven't covered?
 10 A. No.
 11 Q. Okay.
 12 (Brief recess.)
 13 (Certain documents were marked Deposition
 14 Exhibits 52 through 54, inclusive, for
 15 identification by the reporter.)
 16 Q. (BY MR. POOR) Sir, you have been handed
 17 three sets of documents, Deposition Exhibit No. 52
 18 I believe is, is it not, a copy of a letter that
 19 you wrote to Mr. Kamen?
 20 A. Yes, it is.
 21 Q. In 1996 after --
 22 A. Yes.
 23 Q. November of 1996.
 24 A. Yes.
 25 Q. Okay. And then copied a whole bunch of

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1 folks?
2 A. Yes, I did.
3 Q. Did you receive any response back from
4 this?
5 A. None whatsoever.
6 Q. From any of the individuals?
7 A. None of them.
8 Q. Okay. Exhibit No. 53 are documents
9 produced to us, Bates stamped 02289, et cetera.
10 Could you just briefly tell me what that set of
11 documents is? I don't mean the substance, --
12 A. Yes, this --
13 Q. -- I just want to understand --
14 A. No, this was a collection of documents
15 supporting efforts we had made over the years
16 relative to trying to get the company to capitalize
17 on the call center from a marketing and sales lead
18 generation standpoint.
19 Q. Okay.
20 A. It goes back a number of years.
21 Q. I see. So the first document is one in
22 August you sent to Mr. St. John; the others are
23 just -- it is just a collection --
24 A. It is just a collection.
25 Q. These are not ones you sent to Mr. St.

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1 John?
2 A. No. Right, it is just a collection
3 illustrating our efforts to try and utilize the
4 call center for that.
5 Q. I understand. Okay. The last document in
6 front of you which I have had marked is Deposition
7 Exhibit No. 54, are your answers to defendant's --
8 A. Document production.
9 (Discussion off the record.)
10 Q. (BY MR. POOR) Now, Mr. Ray, I am going
11 to go over with you a few of your answers to
12 defendant's interrogatories in this case.
13 A. Yes.
14 Q. You reviewed and signed these
15 interrogatories?
16 A. Yes, I did.
17 Q. Okay. Interrogatory No. 3 asks for people
18 who you believe have knowledge of the facts --
19 A. Yes.
20 Q. -- in this case. Now, many of the names we
21 have talked about, there is no need to cover them.
22 In response to the wrongful termination
23 count in, addition to Mr. Anderson, Ms. Gardner,
24 Mr. St. John and Dr. Friedewald, all of whom we are
25 painfully aware of who they are, you also list a

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1 Rose E. Wolf?
2 A. Yes.
3 Q. Who is Ms. Wolf?
4 A. She was in the BSG Human Resources and was
5 a party, as I understand it, to the posting process
6 and -- with respect to how some of the call center
7 and the BSG organization handled some of its
8 postings. And I would assume that she was involved
9 or my belief is that she was involved from that
10 standpoint at least with knowledge relative to the
11 outcome of the posting process, whether or not
12 there were issues associated with Miss Hemenway's

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13 hiring, whether or not the Human Resources
 14 organization there raised any concerns.
 15 Q. She's the person in corporate Human
 16 Resources that your people would have worked with?
 17 A. That Stan St. John and the call center
 18 would have worked with.
 19 Q. And you know that because — how do you
 20 know that?
 21 A. Because her name came up during the
 22 process in some of the dialogue over the posting as
 23 to who was handling it and that sort of thing.
 24 Q. You never talked to her directly?
 25 A. No, I did not.

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 1 Q. And you don't know for sure what her
 2 involvement was?
 3 A. No, I do not know for sure.
 4 Q. Okay. And in response to the breach of
 5 contract claim, you list Miss Hayden. Obviously,
 6 she drafted —
 7 A. Right.
 8 Q. — one of the policies. Is there anything
 9 else other than the pieces of paper we talked about
 10 today?

11 A. And — no. Well, other than her
 12 responsibility in Human Resources for the
 13 administration of company policy.

14 Q. Okay. You don't know that she was
 15 directly involved in your case, —

16 A. No.

17 Q. — your issue?

18 A. No.

19 Q. Okay. Staying on the breach of contract,
 20 you list James O'Connor?

21 A. Yes.

22 Q. As director of IT, and I gather at
 23 Atlanta.

24 A. Yes. Mr. O'Connor was the one
 25 responsible, as I know it, for the hiring of the

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1 operations manager and that posting process within
 2 the IT organization, and I felt he could have
 3 explained or at least established that, and it was
 4 a limited posting and whatever their logic and —

5 Q. So the posting was in his organization?

6 A. Yes, it was.

7 Q. Dr. Wiseman is your primary care
 8 physician?

9 A. Yes, he is.

10 Q. Okay. We will come back to him for a
 11 second.

12 You list a Pauline Wittenberg as
 13 providing testimony relative to discussions in
 14 Phase 2 of MetLife.

15 A. She was a party to — she was a member of
 16 the customer service team during Phase 2. There
 17 were a number of comments made or conversations
 18 about, well, we will do this in Tulsa and
 19 referencing my — my role, you know, that at least
 20 conversations and discussions took place creating a
 21 reasonable expectation for me that I would be the
 22 site leader in Tulsa and the conversations that
 23 took place in Phase 2 related to that.

24 Q. Were related to complimentary of the job
 25 being done by the Tulsa organization?

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1 A. That and just simply as a matter of my
2 involvement on the customer service team and what I
3 was contributing to the call centers, and there was
4 discussion, at one point, about establishing the
5 traffic management center there and a lot of other
6 things, but –

7 Q. Miss Wittenberg was on the team?

8 A. Yes, she was.

9 Q. Do you know what role she played in the
10 ultimate selection process?

11 A. None, probably.

12 Q. Kenneth Luna?

13 A. Yes, Ken Luna would testify to – he's in
14 the IT organization, on the telecommunications side
15 that clearly that Tulsa was a consistent leader in
16 utilizing technology in many of the things that we
17 were doing in the call center, and my knowledge of
18 those issues.

19 Q. Okay. And how long have you sought
20 treatment from Dr. Wiseman?

21 A. I have been under a physician's care since
22 my original bypass back in 1982. Dr. Wiseman took
23 over my former PCP's practice when he left, and I
24 would guess it's been two-and-a-half, three years;
25 I'm not exactly sure when he took it over.

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304

1 Q. And how many bypass operations have you
2 had?

3 A. Oh, two. Two.

4 Q. Okay. One in 1982 and then the other was
5 in '97?

6 A. January 28th.

7 Q. '97?

8 A. '97.

9 Q. Okay. Now, we have previously gone
10 through or we pulled out the set of documents
11 relating to EEOC, and what has been Bates stamped
12 and 00328, that's the charge of discrimination
13 filed in this case; is that correct?

14 A. Yes.

15 Q. That's your signature at the bottom
16 left-hand corner?

17 A. Yes, it is.

18 Q. And those are the allegations you made to
19 the EEOC?

20 A. Yes. That was their interpretation of
21 my –

22 Q. Understood.

23 A. (Affirmative head nod).

24 Q. Turning your attention to part of the EEOC
25 file, it is, I believe, your letter to the EEOC, it

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1 starts on Bates stamp 355.

2 A. Okay.

3 Q. It goes through 3 – well, there's a bunch
4 of pages – drawing your attention to page 7 of
5 it. This is, in fact, a part of the letter that
6 you or – you drafted or was drafted on your
7 behalf; is that true?

8 A. Yes, I wrote every word.

9 Q. Okay. Specifically as it relates to the
10 issues regarding Ms. Hemenway, in this paragraph
11 you are claiming "Had" – you are talking about not
12 starting – failure to start the process over,

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13 reposting it?

14 A. Yes.

15 Q. "Had that been done" -- meaning the
16 reposting -- "Ms. Hemerway could have become a
17 legitimate candidate." You mean that in the sense
18 of appropriately considered; I assume that doesn't
19 mean you are varying your position that she was not
20 better, not better qualified?

21 A. No, absolutely not, but -- right.

22 Q. Okay. Now, your damages that you are
23 claiming in this case, you are seeking damages for
24 the intentional infliction of emotional distress;
25 is that correct?

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306

1 A. Yes.

2 Q. Okay. And can you tell me please how that
3 has -- and one of your contentions is that the
4 stress associated with the '96 action has
5 contributed to your second bypass in January of
6 '97.

7 A. Yes.

8 Q. Not to put words in your mouth, but I know
9 where we are going, so no point in wasting time.

10 In what other ways did the emotional
11 stress you claim to have suffered as a result of
12 the company's actions in 1996 manifest itself?
13 A. I believe in a shorten life expectancy, to
14 the extent that -- that the deterioration of my
15 health at that point was so rapid and to what I
16 went through, but --

17 THE WITNESS: Do you want me to leave that
18 to you or --

19 MR. RAYL: Is that all you can think of
20 right now?

21 THE WITNESS: Well, no, it -- I mean I'm
22 convinced I won't live as long as I would have.

23 Q. (BY MR. POOR) Okay. And what leads you
24 to that?

25 A. Basically, anyone who has undergone a

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1 bypass operation, it seldom is totally permanent
2 and totally resolves the problem. I believe that
3 the deterioration of mine was accelerated, causing
4 me to have that prematurely and to whatever extent
5 that happened, I also don't know what the overall
6 impact will be on of the second one and how
7 permanent it will be or how lasting it will be.
8 And I don't assume I can continue to have bypass
9 operations for the rest of my life.

10 Q. Any other way in which you believe the
11 emotional distress you suffered manifested itself?

12 A. I had to work through tremendous personal
13 devastation, and there were a lot of --

14 MR. RAYL: Excuse me for a second. Could
15 you clarify that question? Are you asking him for
16 physical manifestations?

17 MR. POOR: In any way it manifested
18 itself.

19 MR. RAYL: Okay.

20 MR. POOR: I could give you, trust me, I
21 have heard lots of different things, and I can give
22 you lots of examples.

23 MR. RAYL: Okay.

24 Q. (BY MR. POOR) I don't mean just that you
25 felt bummed out, generally; I mean in what way

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1 would emotional distress have manifested itself in
 2 a way that someone else could have observed it? I
 3 understand you may have suffered internal turmoil
 4 and felt bad and all that stuff, and I don't mean
 5 to minimize that?

6 A. No, right.

7 Q. But if someone were observing you, what
 8 would they say they observed changes in your sleep
 9 patterns, behavior, whatever. That's what I am
 10 asking.

11 A. I don't think there's any doubt that
 12 anyone had any trouble knowing that I had lost –
 13 had a tremendous sense of loss, which was very
 14 evident in my behavior to the extent that I was
 15 very subdued, just in various ways in my behavior.

16 Q. Okay. Any other ways?

17 A. Not that I know of right now.

18 Q. Okay. Now, you are also seeking economic
 19 damages?

20 A. Yes.

21 Q. Based upon the pay differential between
 22 the site leader position as ultimately compensated
 23 and your current position?

24 A. The promotional opportunities, the
 25 incentive compensation associated with all of that,

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1 and where my income would have gone had I become an
 2 officer of the company.

3 Q. And that relates to which position?

4 A. The site leader position and the Barbara
 5 Gardner position.

6 Q. On the site leader position, what is it
 7 that – the Barbara Gardner position, is that an
 8 officer position?

9 A. Yes, it is.

10 Q. That is an officer position?

11 A. Yes, it is.

12 Q. What is it about the site leader position
 13 that leads you to believe that you had a reasonable
 14 probability of being an officer of the company by
 15 going into that position?

16 A. The fact that one of the site leaders that
 17 was selected in spite of the fact that the job was
 18 not posted at an officer level, was already an
 19 officer, accepted the position, did not lose that
 20 officer title, and the reasonable expectation based
 21 on my own experience in MetLife Express and
 22 everything else that I truly envisioned that it was
 23 going to become an officer position as a result of
 24 the new organization, which they all did.

25 Q. Is Ms. Hemenway an officer of the company?

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1 A. Yes, she is.

2 Q. Okay. Now, you indicate that in your
 3 answers to interrogatories, specifically
 4 Interrogatory No. 7, that you are projecting a loss
 5 of salary for ten years until plaintiff would
 6 become eligible for retirement?

7 A. Yes.

8 Q. I can show that to you.

9 A. (Affirmative head nod).

10 Q. Okay. Have you ever indicated to
 11 anyone – that would be the year 2008.

12 A. Yes.

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13 Q. 2008?
 14 A. Whatever.
 15 Q. Call it?
 16 A. Yes.
 17 MR. RAYL: Yes, I believe you would turn
 18 65 in 2007, wouldn't you?
 19 THE WITNESS: Whatever.
 20 Q. (BY MR. POOR) Whatever. Late 65, let
 21 it's put it that way.
 22 A. (Affirmative head nod).
 23 Q. Have you ever indicated anyone the
 24 intention to retire earlier than 65?
 25 A. Yes, prior to MetLife Express, I was quite

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1 frustrated, and I don't think it was my intention,
 2 I didn't see anything dramatic happening with my
 3 career, I didn't see anything dramatic happening
 4 with Teleservices, so I didn't see that, but, in
 5 essence, I was rejuvenated as a result of the
 6 MetLife Express and my belief that I thought some
 7 of these things were finally going to come to
 8 fruition, and certainly the prospect if I became an
 9 officer, I would not have considered early

10 retirement.

11 Q. In fact, I will show you plaintiff's –
 12 part of what will be marked as Deposition Exhibit
 13 45. This is Bates stamped 01431, I can show you
 14 the entire letter, I suspect you know what it is.
 15 This is a letter you wrote to Bob Crimmins and part

16 of the letter to Bob Crimmins January 19th,

17 1994, –

18 A. Uh-huh.

19 Q. -- which indicates at the middle of the
 20 page –

21 A. That I could last another three years and
 22 four months.

23 Q. Three years and four months until you
 24 would have been at that point what age?

25 A. 55 I would have been, yes.

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1 Q. 55.

2 MR. POOR: We would like to get a medical
 3 release at some point –

4 MR. RAYL: Okay.

5 MR. POOR: – so we can get the documents.

6 MR. RAYL: Absolutely, no problem.

7 MR. POOR: That's all I have.

8 (A certain document was marked Deposition

9 Exhibit No. 45 for identification by the reporter.)

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5
6 JAMES L. RAYL
7
8
9

10 STATE OF OKLAHOMA)
11) ss.
12 COUNTY OF OKLAHOMA)
13

14
15 Subscribed and sworn to before me this
16 day of _____, 1998.
17
18
19

20
21 Notary Public, State of Oklahoma
22
23
24 My commission expires _____
25

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1 **CERTIFICATE**
2

STATE OF OKLAHOMA)
3) ss.
4 COUNTY OF OKLAHOMA)
5

6 I, Maynard E. Peterson, RPR, RMR, a
7 Certified Shorthand Reporter within and for the
8 State of Oklahoma, do certify that the witness in
9 the foregoing deposition, JAMES L. RAYL, was duly
10 sworn to testify the truth, the whole truth and
11 nothing but the truth, in the within-entitled
12 cause; that said deposition was taken at the time
13 and place herein named; that the deposition is a
14 true record of the witness's testimony as reported
15 by me and thereafter transcribed into typewriting
16 by computer.

17 I do further certify that I am not
18 counsel, attorney or relative of either party, or
19 clerk or stenographer of either party, or otherwise
20 interested in the event of this suit.

21 I do further certify that I am a duly
22 qualified and acting Certified Shorthand Reporter
23 within and for the State of Oklahoma, Certificate
24 No. 00325.

25 IN WITNESS WHEREOF, I have hereunto set
my hand and affixed my CSR stamp at my office in
17 Oklahoma City, Oklahoma, this 5th day of March,
1998.

18
19
20 Maynard E. Peterson, RPR, RMR
21 Oklahoma Certified Shorthand Reporter
22 Certificate No. 00325
23 Exp. Date: December 31, 1998

24
25 COSTS: \$ _____
Paid by Defendant

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(1195544.1)

1
 IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAMES L. RAYL,)

 Plaintiff,)
 vs.) No. 97-CV-
) 505H(M)

 METROPOLITAN LIFE INSURANCE)
 COMPANY, INC.)

 Defendant.)
)

_____) DEPOSITION OF JAMES L. RAYL

New York, New York

Monday, April 13, 1998

Reported by:

LINDA SALZMAN

JOB NO. 69579

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MP401050061

2
 April 13, 1998

4:00 p.m.

Deposition of JAMES L. RAYL, held
 at the offices of Seyfarth, Shaw,
 Fairweather & Geraldson, Esqs., 900 Third
 Avenue, New York, New York, pursuant to
 Notice, before Linda Salzman, a Notary
 Public of the State of New York.

3

1
 2 APPEARANCES:

3
 4 PARKER, STAGGS & ASSOCIATES, P.C.
 5 Attorneys for Plaintiff
 6 Southern Ridge
 7 6506 South Lewis, Suite 220
 8 Tulsa, Oklahoma 74136

9 BY: J. BRIAN RAYL, ESQ.

10 JEFFREY PARKER, ESQ.

11 SEYFARTH, SHAW, FAIRWEATHER &

12 GERALDSON, ESQS.

13 Attorneys for Defendant

14 900 Third Avenue

15 New York, New York

16 BY: J. STEPHEN POOR, ESQ.

17
 18 ALSO PRESENT:

19 MARCELO RIVERA, Videographer

20
 21
 22
 23
 24
 25

4

1
 2 STIPULATIONS

3
 4 IT IS HEREBY STIPULATED AND AGREED by
 5 and between the attorneys for the respective

6 parties herein, that filing and sealing be
 7 and the same are hereby waived.
 8 IT IS FURTHER STIPULATED AND AGREED
 9 that all objections, except as to the form
 10 of the question, shall be reserved to the
 11 time of the trial.

12 IT IS FURTHER STIPULATED AND AGREED
 13 that the within deposition may be sworn to
 14 and signed before any officer authorized to
 15 administer an oath, with the same force and
 16 effect as if signed and sworn to before the
 17 Court.

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 19 - 00o -
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5

1 MR. POOR: Mark this as 55.
 2 (Defendant's Exhibit 55, Second
 3 Amended Complaint, marked for
 4 identification, as of this date.)

5 THE VIDEOGRAPHER: This is tape No.
 6 1 of the videotape deposition of James
 7 Rayl taken by defendants in the matter
 8 James L. Rayl, the plaintiff, versus
 9 Metropolitan Life Insurance Company, Inc.,
 10 the defendant, in the United States
 11 District Court for the Northern District
 12 of Oklahoma, No. 97 CV 505HM.

13 This deposition is being held at
 14 the law offices of Seyfarth, 900 Third
 15 Avenue, New York, New York, on April 13,
 16 1998 at approximately 4:03 p.m.

17 My name is Marcelo Rivera from the
 18 firm of Esquire Video Services, and I am
 19 the legal video specialist. The court
 20 reporter is Linda Salzman, in association
 21 with Esquire Deposition Services, 216 East
 22 45th Street, New York, New York.

23 Will counsel please introduce
 24 themselves.
 25

6

1 MR. POOR: Stephen Poor, counsel
 2 for the defendant.

3 MR. RAYL: Brian Rayl, counsel for
 4 the plaintiff.

5 MR. PARKER: Jeffrey Parker,
 6 co-counsel for the plaintiff.

7 THE VIDEOGRAPHER: Will the court
 8 reporter please swear in the witness.

9 JAMES L. RAYL,
 10 called as a witness, having been first
 11 duly sworn by a Notary Public, was
 12 examined and testified as follows:

13 EXAMINATION BY

14 MR. POOR:

15 Q. Good afternoon, Mr. Rayl.

16 A. Hi.

17 Q. It's good to see you again.

18 A. Same here.

19 Q. This is the -- as you recall, we've
 20 been through a day or so of your deposition
 21 before.

22 A. Right.

23 Q. This is to -- the purpose of this
 24 is to cover a few of the additional counts in the

25

1 Rayl

2 second amended complaint filed after our
 3 deposition.
 4 I presume that you recall the basic
 5 ground rules of the deposition. I'm going to ask
 6 you some questions, you're going to answer them.
 7 A. I do.

8 Q. Okay. I hand you what's been
 9 marked as deposition No. Exhibit 55, which is the
 10 second amended complaint; which is, unless there
 11 has been one filed since I left Chicago, the most
 12 recent complaint.

13 And you recognize that, don't you,
 14 Mr. Rayl?

15 A. Yes, I do.

16 Q. Okay. And if I turn your attention
 17 to page 6, please, which is where I believe the
 18 new counts are added, starting with Count 7,
 19 negligence.

20 A. Yes.

21 Q. Okay. If you would, take a second
 22 and just read that count, sir. It carries over
 23 to page 7.

24 A. Okay.

25 Q. Now specifically addressing

8

1 Rayl
 2 paragraph 62, you're talking about, you say
 3 "During 1996," then there's a clause, "at the
 4 time of the events involving Mr. Rayl."

5 And what events are you referring
 6 to, sir?

7 A. That would be the events basically
 8 encompassing all of 1996, I guess, from my
 9 experience on MetLife Express through my posting,
 10 through my appointment as interim site
 11 coordinator, to my ultimate dismissal from the
 12 position.

13 Q. So we're talking about that chain of
 14 events from the time you became -- from the time
 15 you were -- I'm sorry, your title prior to
 16 becoming interim site leader, remind me?

17 A. Was the director of Call Center.

18 Q. So that sequence of events we're
 19 talking -- and again, Mr. Rayl, I don't want to
 20 cover today things we covered over a couple of
 21 days, that's not my purpose.

22 That series of events we've talked
 23 about from the time you were Call Center director
 24 through then the interim, Mr. St. John, the
 25 application process and the failure to receive

9

1 Rayl
 2 that --

3 A. And I guess it would have to also
 4 encompass the events that transpired after that
 5 because of the impact it had on me and my health.

6 Q. And what events after that are we
 7 talking about?

8 A. Which was in essence -- I'm trying
 9 to think of the best way -- rapid degeneration of
 10 my heart disease, manifested by the increasing
 11 symptom level that occurred from June of 1996
 12 till January of 1997 when I had the surgery.

13 Q. Until when in 1997?

14 A. January 28th.

15 Q. What events are you talking about
 16 in terms of actions or failures to act on the
 17 part of MetLife?

18 I understand you had a worsening
 19 heart condition, but in terms of what people at
 20 MetLife did after you failed to receive the
 21 position, what are you talking about?

22 A. Well, we can start with Mr.
 23 Friedewald, Dr. Friedewald I guess.

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24 Q. Okay.
 25 A. And to the extent that he was very

10

1 Rayl
 2 much aware of how I felt about the position, what
 3 I was trying to accomplish, how much I expected
 4 the position, and the act of appointing me as
 5 interim site coordinator, never giving me a clue
 6 as to the possibility that I wouldn't be
 7 appointed the site leader.

8 But it really encompasses that,
 9 plus it is my recollection that he does have
 10 knowledge of my health situation at that time.

11 So knowing those facts, I feel he
 12 was negligent in the way that whole situation was
 13 handled, and the company was negligent.

14 Q. "That situation" being the failure
 15 to give you that job?

16 A. It's much more than just the
 17 failure to give me that job. It is again the
 18 whole series of events from the posting process,
 19 to prolonging the posting process, to creating
 20 the expectations, to giving me additional
 21 responsibilities, and then to come in and take
 22 the job away from me the way they did.
 23 But it's that whole series of
 24 events.

25 Q. What is it that Dr. Friedewald
 11

1 Rayl
 2 specifically did, or conversely should have done
 3 that he didn't do, that you believe was
 4 negligent?

5 A. Well, I guess some of that will be
 6 determined in our deposition tomorrow with Dr.
 7 Friedewald.

8 To the extent that throughout the
 9 period of MetLife Express, throughout the period
 10 of phase two, phase three interim site
 11 coordinator position, if anyone had any
 12 difficulty with any aspect of my performance,
 13 that was never – it was never mentioned.

14 I was never given any kind of an
 15 indication that I would not be basically selected
 16 to keep the job I had.

17 So to the extent that at whatever
 18 point I ceased to become a candidate for the
 19 position or if they felt there were serious
 20 performance issues with me, which they did not
 21 address with me, then to deny me the position at
 22 that point, again, I think that's what I would
 23 construe as negligence, again knowing the
 24 potential impact that it would have on me.

25 Q. So it's your belief that Dr.

12

1 Rayl
 2 Friedewald should have told you either when he
 3 discovered performance problems, to use your
 4 term, or realized that you were not going to get
 5 the job?

6 A. Dr. Friedewald had a better
 7 knowledge probably of, than anyone, the extent to
 8 which I loved the job, I wanted the job, I had
 9 performed the job, and with all the contributions
 10 I've made to the whole Call Center Initiative on
 11 MetLife Express and the things that I tried to
 12 accomplish.

13 I can't say specifically what he
 14 should have done when, because I don't know what
 15 was in his mind. But clearly he should have
 16 certainly – well, we could debate what I think
 17 the company should have done all day long.

18 Q. Let me ask it this way, Mr. Rayl,
 19 because we covered in some length contributions

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20 you think you made and your dedication to the
 21 job, and I don't mean to minimize it, but we
 22 covered all that; and for sake of time, we will
 23 take that as a given.

24 A. Okay.

25 Q. What I'm more interested in is your

13

1 Rayl
 2 belief, and again I'm not here to debate with
 3 you, I'm not going to argue with you, I just want
 4 to know from you what it is, and you say Mr. St.
 5 John and others, and one of the others you
 6 identified is Dr. Friedewald.

7 What is it that Dr. Friedewald
 8 either did or failed to do that you believe was
 9 negligent and caused you the – well, I guess we
 10 will get to the damages, the injuries here in a
 11 minute.

12 A. Both he and Mr. St. John failed to
 13 give me any fair indication that there was any
 14 issues associated with my performance, that there
 15 was any issues associated with my potential
 16 selection for the position.

17 Q. Anything else? I don't mean to
 18 infer there was, Mr. Rayl, but –

19 A. I think it's hard to sit here and
 20 say is there anything else.

21 Q. With regard to those two
 22 individuals.

23 A. With respect to those two
 24 individuals, based on the facts I know today, I
 25 hope my statement covers it, but I don't want to

14

1 Rayl
 2 sit here and unequivocally say that I may not
 3 remember or think that there is some other aspect
 4 to it.

5 Q. Okay. You understood that your
 6 position was labeled interim site coordinator,
 7 correct?

8 A. Yes.

9 Q. And you were interviewed by Dr.
 10 Friedewald in the springtime, correct?

11 A. April 30th.

12 Q. You are aware that they're in the
 13 process of selecting site leaders, correct?

14 A. Yes.

15 Q. And you're aware that that process
 16 went on for a certain period of time, correct?

17 A. The selection process shouldn't
 18 have gone on. The announcement is what dragged
 19 on. The selection process should have been over.

20 Q. Well, what should or should not
 21 have happened, Mr. Rayl, is not what I'm asking.
 22 You were aware that the process was
 23 continuing on up until the point you were told,
 24 correct?

25 A. Yes. And I guess I would also say

15

1 Rayl
 2 that dragging that process out that way was
 3 negligent.

4 Q. I understand your position on that,
 5 Mr. Rayl.

6 A. Okay.

7 Q. Now you also indicated in your
 8 complaint "and others, other employees of MetLife
 9 in terms of the actions."

10 We've talked about Mr. St. John and
 11 we've talked about Dr. Friedewald.

12 A. Yes.

13 Q. Anyone else? And you don't have to
 14 qualify it by saying you may learn stuff later.
 15 I understand that.

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16 My questions are now based on what
 17 you know and what you're aware of as we sit here
 18 today.

19 A. What I know and what I'm aware of
 20 today, no, but I have every reason to think that
 21 other people may have been involved in the
 22 decision; but I do not know that for a fact
 23 today.

24 Q. But as we sit here today, it's Dr.
 25 Friedewald and Mr. St. John that are the people

16

1 Rayl
 2 involved in your Count 7, to the best of your
 3 knowledge?

4 A. They are certainly involved in the
 5 count, yes.

6 Q. I understand they are, but my
 7 question obviously was as you sit here today, can
 8 you name anyone else specifically who you
 9 believed engaged in acts of negligence, defined
 10 as either acts or omissions to act?

11 A. Not knowing what discussions took
 12 place, no, I don't. But again I suspect there
 13 are others that are involved.

14 Q. And those would be others involved
 15 in this process that dragged on?

16 A. It could be, for example, the
 17 degree to which they did or did not consult with
 18 human resources, the degree to which human
 19 resources did or did not condone their actions.

20 Q. I'm not asking you to speculate,

21 Mr. Rayl. I'm just trying to --

22 A. But I don't want to be -- sit here
 23 and say that I am only alleging --

24 MR. RAYL: Answer to the best of
 25 your knowledge today.

17

1 Rayl

2 THE WITNESS: Okay.

3 Q. Now you indicate that "The failure
 4 of Mr. St. John and at least Dr. Friedewald, was
 5 a direct cause of injuries sustained by Mr.
 6 Rayl."

7 A. Yes.

8 Q. And that's your heart condition you
 9 alluded to?

10 A. Yes.

11 Q. Is there anything else? I don't
 12 mean to say that that's not enough.

13 A. No. It certainly was the mental
 14 and emotional distress and everything that I went
 15 through at that period of time; in addition to
 16 the heart condition, the adjustment I had to make
 17 after losing that position, and what it meant to
 18 me.

19 Q. And how did the -- I understand you
 20 encountered further coronary difficulties and had
 21 surgery in January --

22 A. Yes.

23 Q. -- of '97.

24 Other than your heart condition and
 25 that physical manifestation, how did the

18

1 Rayl

2 emotional stress, trauma, whatever term you care
 3 to use, manifest itself?

4 A. Certainly in a fairly deep initial
 5 depression, and ongoing periods of depression
 6 until I began to feel a sense of value in the
 7 organization again.

8 Q. And when was that, from when to
 9 when? Give me a time frame.

10 A. Probably in -- let's see, this is
 11 1998, it was probably mid 1997 before I began to

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MP401050066

12 feel halfway decent about what I was doing.
 13 Q. So from mid '96 to mid '97?
 14 A. Yes.
 15 Q. During that time period did you
 16 seek any help from any mental health care
 17 professionals?
 18 A. No, I did not.
 19 Q. So when you say you suffered a deep
 20 depression, those are your terms, not a diagnosis
 21 given to you by a mental health professional?
 22 A. Yes.
 23 Q. Did you take any medication or any
 24 drug regime as a result of this, quote,
 25 depression, close quote?

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19
 1 Rayl
 2 A. No, I did not.
 3 Q. Turning your attention to Count
 4 8-
 5 A. Yes.
 6 Q. -- you refer to the operations
 7 officer for IB client support services.
 8 Do you see that in paragraph 68?
 9 A. Yes.
 10 Q. Who is that?
 11 A. That was the Barbara Gardner
 12 position.
 13 Q. That Sharon Condello received?
 14 A. Yes.
 15 Q. And it's your position that hiring
 16 Ms. Condello for that position as opposed to
 17 promoting you was age discrimination, if I could
 18 summarize your count here, correct?
 19 A. Yes.
 20 Q. When did you first express interest
 21 in that position, and to whom?
 22 A. I can't really recall, other than
 23 the fact that it was only natural that I would be
 24 interested in that position.
 25 And I did have a conversation, or

20
 1 Rayl
 2 perhaps I should say Rich Anderson had a
 3 conversation with me, telling me essentially that
 4 I would not be considered a candidate for the
 5 position.
 6 Q. Now Ms. Gardner moved out of that
 7 position. When did that position open?
 8 A. I think it officially opened
 9 somewhere around December of 1996.
 10 Q. When Ms. Gardner moved on to
 11 another position?
 12 A. She may have assumed the
 13 responsibilities in January or December, I'm not
 14 real sure, but it was known in December that she
 15 was leaving the position.
 16 Q. Okay. And at that time you were
 17 back working for Ms. Gardner, correct?
 18 A. Yes.
 19 Q. Remind me of your job title at the
 20 time, manager of enforce?
 21 A. I'm not sure that I officially had
 22 that job title. In other words, I posted for
 23 that position and it was some weeks or months
 24 before the position title became effective.
 25 I'm almost thinking that it did not

21
 1 Rayl
 2 become effective until January, and so I'm not
 3 sure how I was carried on the books at that
 4 point.
 5 Q. Okay, but that's the job you were
 6 doing?
 7 A. I think we were creating the new

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8 organization at that time, yes.
 9 Q. Now, there was a period of time,
 10 let's just use January of '97; I understand it
 11 may have been December of '96, but let's just use
 12 January of '97.

13 From that point forward there was a
 14 period of time where the operations officer
 15 position was vacant, correct?

16 A. Yes.

17 Q. When was Ms. Condello actually --
 18 when did she show up for work?

19 A. She was actually appointed to the
 20 position in November of 1997. Her first couple
 21 of months on the job were here in New York. She
 22 was back and forth, but she was officially in the
 23 position November.

24 She showed up on site to take full
 25 responsibility I believe in January of '98.

22

1 Ray

2 Q. But for approximately ten months
 3 the position was empty?

4 A. That's correct.

5 Q. Who was covering the functions of
 6 that -- or what people were covering the
 7 functions of that position during that ten
 8 months?

9 A. The responsibilities were
 10 theoretically split between Mr. Jim Judd and
 11 myself.

12 Q. Jim Judd?

13 A. Yes.

14 Q. J-U-D-D?

15 A. Yes.

16 Q. And Rich Anderson was at that point
 17 in time your direct report?

18 A. Yes.

19 Q. Or your direct supervisor, I'm
 20 sorry.

21 A. Yes.

22 Q. And with Ms. Condello coming in you
 23 now report to Ms. Condello, who in turn reports
 24 to Mr. Anderson?

25 A. Yes.

23

1 Ray

2 Q. What is the job of the operations
 3 officer for IB client support services?

4 A. Basically what has now been defined
 5 under the new organization as client support
 6 services, which encompasses enforce management,
 7 my organization, planning and development, the
 8 death claims area, the policyholder services
 9 area, cash loan and dividend, which is cash loan
 10 and dividend operations, annuities, beneficiary
 11 and assignment, mail microfilm supply, all report
 12 to Ms. Condello.

13 Q. Approximately how many people are
 14 in her organization?

15 A. I think the number is something in
 16 the neighborhood of 250 to 280.

17 Q. How many people does she have
 18 directly reporting to her now in addition to you
 19 and Mr. Judd?

20 A. There was a total of seven,
 21 counting Mr. Judd and myself.

22 Q. How does this job compare with the
 23 job held by Ms. Gardner mainly prior to moving
 24 out of that job, if you know?

25 A. Well, the job was diminished while

24

1 Ray

2 Ms. Gardner had it as a result of the
 3 reorganization, but it is essentially the same

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4 job that Ms. Gardner had when she left the
 5 position.
 6 Q. And this conversation you had with
 7 Mr. Anderson --
 8 A. Yes.
 9 Q. -- is this the one and only
 10 conversation you can recall that you had with Mr.
 11 Anderson about this job or your candidacy, for
 12 lack of a better term for that job?
 13 A. Yes.
 14 Q. When did this conversation occur?
 15 A. I believe it was in January of '97.
 16 I believe it was before my surgery. It's
 17 possible it was later, but after I returned from
 18 disability.
 19 Q. Now, prior to the conversation had
 20 you and Mr. Anderson exchanged any documents,
 21 correspondence, memoranda, about this position or
 22 your candidacy for it or interest in it, or
 23 anything like that?
 24 A. Not that I recall.
 25 Q. Was that conversation with Mr.

25

1 Ray
 2 Anderson in person or on the phone?
 3 A. It was in person. It was during a
 4 visit I believe to Tulsa. And he essentially had
 5 the same conversation with Mr. Judd, as I recall.
 6 Q. Were you two present at the same
 7 time?
 8 A. No.
 9 Q. Is this Mr. Judd relating it to
 10 you?
 11 A. Yes, it is.
 12 Q. And the conversation he had with
 13 you, please walk me through it.
 14 A. If I could remember it I would. I
 15 don't really remember much of it other than he
 16 had indicated, I'm not sure whether it was in
 17 response to a question on my part what did he
 18 plan to do about the position and my candidacy,
 19 but he had indicated that he was going to take
 20 his time, he was going to look for an external
 21 candidate, and essentially I would not be a
 22 candidate.
 23 Q. Were there other topics on the
 24 agenda for Mr. Anderson to come to Tulsa at least
 25 to deal with you, or is this the only thing you

26

1 Ray
 2 and he talked about?
 3 A. He typically made routine visits.
 4 I would assume that he probably wanted to get
 5 that message out there as quickly as possible,
 6 but I'm sure there were other things he discussed
 7 also.
 8 Q. What else did you and Mr. Anderson
 9 discuss about this job or the selection process,
 10 other than he was going to take his time and you
 11 were not a candidate?
 12 A. I really don't recall specifically.
 13 I'm sure I expressed some level of disappointment
 14 and disagreement that I would not be considered a
 15 candidate, but I wasn't in a mental state, I
 16 guess, to fight that at the time.
 17 Q. And you say Mr. Judd had a similar
 18 conversation with Mr. Anderson?
 19 A. Yes.
 20 Q. Do you know whether he had any
 21 conversation with other members of management in
 22 Tulsa?
 23 A. Not that I know of.
 24 Q. Now this job was not posted,
 25 correct?

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27

Rayl

1 A. Correct.
2 Q. As an officer level, under the
3 policies it didn't have to be posted, correct?
4 A. Correct.
5 Q. Did you ever see anything in
6 writing that defined the qualifications or the
7 functions of that job, what they were looking
8 for?
9 A. No. Only my observations over the
10 years, and plus the fact that my peer in Warwick
11 had received that job for that operation.
12 Q. Who was that?
13 A. Kathy Schoos, S-C-H-O-O-S, Kathy
14 with a K.
15 Q. At the time had you seen Ms.
16 Schoos - is that how you pronounce that - the
17 reviews of Ms. Schoos?
18 A. No, I had not.
19 Schoos was good person. She
20 deserved the job.
21 Q. Did you and Mr. Anderson ever have
22 any conversations about what he was looking for
23 on the job, what the skill sets were, what the
24 dimensions were of the job that he was looking

28

1 Rayl
2 for, other than what you have told me?
3 A. It's possible he told me other
4 things at the time, but I don't remember what
5 they might have been.
6 Q. What do you know about Ms.
7 Condello's background?
8 A. I think she had essentially a
9 similar capacity, but at a much, much smaller
10 company.
11 Q. Similar capacity --
12 A. In terms of operations
13 management - or I don't know whether she was an
14 officer of the company she came from or not.
15 Q. So similar capacity is the job
16 she's doing now, but at a smaller company as
17 opposed to some of the capacity you --
18 A. Yes.
19 Q. Do you know where she came from?
20 A. Ameritas Life in Nebraska,
21 A-M-E-R-I-T-A-S.
22 Q. Did you know her before she started
23 at MetLife?
24 A. No, I did not.
25 Q. Have you ever seen a resume on her,

29

1 Rayl
2 or any written information about her background?
3 A. No.
4 Q. Do you believe you are better
5 qualified for the job than she?
6 A. I believe she is qualified for the
7 job, but I do believe I was better qualified
8 considering all the positions I've had in that
9 office, the things I've managed, what I knew
10 about it.
11 But I would take nothing away from
12 her. She's a good, competent person.
13 Q. Now you indicated that that
14 position supervises, and I may not have written
15 them all down, enforce management, right?
16 A. Yes.
17 Q. And that was a job you had begun to
18 take over at the time, correct?
19 A. Yes.
20 Q. And then I wrote down P&D.
21 A. Planning and development.

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22 Q. Which has evolved over '97?
 23 A. Yes.
 24 Q. Also under your area of
 25 responsibility?
 30
 1 Rayl
 2 A. Yes, parts of it have evolved.
 3 Q. Parts were there and parts had
 4 evolved.
 5 And death claims --
 6 A. Yes.
 7 Q. -- have you ever had any
 8 responsibility for supervising that function?
 9 A. Not death claims per se, no.
 10 Q. You said policyholder services?
 11 A. Yes. That's the cash loan dividend
 12 transactions.
 13 Q. That's the same as the CLD?
 14 A. CLD, right.
 15 Q. And you had some responsibility for
 16 that when you had the Call Center operations,
 17 correct?
 18 A. Yes. I had responsibility for
 19 actually taking that particular operation from a
 20 staff of 30 people to a staff in excess of a
 21 hundred when we consolidated work from several
 22 other offices.
 23 Q. You said annuities?
 24 A. Yes.
 25 Q. Did you ever have any supervisory
 31
 1 Rayl
 2 responsibilities over annuities?
 3 A. No. That was a new function that
 4 was brought into our office with the
 5 reorganization.
 6 Q. I think you listed some more
 7 functions, but I confess I got tired and stopped
 8 writing them down.
 9 A. There was beneficiary and
 10 assignment, mail microfilm and supply. I'm
 11 trying to think. Let me see. I think that
 12 pretty much covers it.
 13 Q. Had you ever had any supervisory
 14 responsibility over the beneficiary and assigns
 15 area?
 16 A. No.
 17 Q. Same question for the mail
 18 microfilm and supply area.
 19 A. I have had mail and supply report
 20 to me in the past, as well as other pieces of the
 21 organization that are no longer a part of it.
 22 Q. What is it that makes you think
 23 that age was a factor in the decision to hire Ms.
 24 Condello as opposed to promote you?
 25 This would have been a promotion,
 32
 1 Rayl
 2 right?
 3 A. Yes, it certainly would.
 4 Q. What makes you think that age was a
 5 factor in the decision to hire Ms. Condello as
 6 opposed to promoting you?
 7 A. To the extent that I still believe
 8 that I was more qualified, I should have been,
 9 with my experience and background, a better
 10 candidate.
 11 The conclusion has to be that there
 12 was some reason, and age could certainly be a
 13 consideration in that decision.
 14 Q. Nobody ever told you that, correct?
 15 A. Nobody told me that, no.
 16 Q. You never saw anything in writing
 17 to indicate that, correct?

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18 A. No.
 19 Q. Turning your attention to Count 10.
 20 MR. POOR: Mark this 56, please.
 21 (Defendant's Exhibit 56, memo to
 22 Richard Anderson, marked for
 23 identification, as of this date.)
 24 MR. POOR: Mark this 57.
 25 (Defendant's Exhibit 57, E-mails,

33

1 Ray
 2 marked for identification, as of this
 3 date.)

4 MR. POOR: Mark this 58.
 5 (Defendant's Exhibit 58,
 6 performance and compensation review,
 7 marked for identification, as of this
 8 date.)
 9 MR. POOR: These may have been
 10 previously marked, Brian. I don't know.
 11 57 is E-mails. 58 is a thing called
 12 performance and compensation review.
 13 A. Okay.

14 Q. Now, in Count 10 you refer to
 15 performance review given to you on the 14th day
 16 of January 1998 that you contend is retaliatory.

17 A. Yes.
 18 Q. I assume that performance review is
 19 the one which has been marked for purposes of
 20 identification as Deposition No. 58, correct?

21 A. Yes.
 22 Q. And then Deposition Exhibit No. 56
 23 is your response to that, correct?
 24 A. Yes.
 25 Q. The memo to Richard Anderson?

34

1 Ray
 2 A. Yes.

3 Q. And in Deposition Exhibit No. 57 is
 4 the — are the E-mails, or in your words, the
 5 exchange of communications?

6 A. But it is only part of the exchange,
 7 it is not the full file.

8 Q. Okay. It's a few of the E-mails,
 9 but not all?

10 A. Well, maybe it is in here. I need
 11 to look at the dates. Okay, it may or may not
 12 be.

13 Q. Anything specifically you're
 14 thinking of that you don't think is included?

15 A. No. Actually, the second one — I
 16 brought a copy of the file. I didn't remember
 17 this one as being the last one on the subject,
 18 but — oh, this is for Karen, okay.

19 Q. Okay. So Mr. Anderson, who as of
 20 January 14th — I guess Ms. Condello had — was
 21 on board by that point in time, but had only been
 22 directly monitoring you for a short period of
 23 time?

24 A. Yes.
 25 Q. So it was Mr. Anderson that gave

35

1 Ray
 2 you your review for '97?

3 A. Yes.

4 Q. Was anyone else present in the
 5 room?

6 A. No.

7 Q. Did he give you Deposition Exhibit
 8 No. 58 at the time?

9 A. Yes, he did.

10 Q. Did he walk through it with you?

11 A. Yes, he did.

12 Q. Tell me what you recall him saying
 13 during your meeting.

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14 A. He pretty much went through what he
 15 wrote on here. I took strong exception to it,
 16 particularly the part where he said "Jim's
 17 accomplishments during the year have been fair at
 18 best.

19 "First, I am not confident that the
 20 procedural development role for which Jim bears
 21 supervisory responsibility is" -

22 Q. I see the section you're referring
 23 to. It's the middle part of the page under
 24 "Achievements."

25 A. And he proceeded to tell me that he

36

Rayl
 1 felt the procedural development function for
 2 other parts of the organization, namely cash flow
 3 and dividend, did not meet his expectations.

4 Q. Did he say to you why?
 5 A. It didn't matter. I had no

6 responsibility for that function.

7 Q. Whether you had responsibility for
 8 it or not, and we'll get to that in a second, did
 9 he explain what was going on in that area that
 10 was not up to his expectations?

11 A. No. He didn't really specify what
 12 was not up to his expectations.

13 Q. At that point you did not have the

14 CLD area?

15 A. And I still don't.

16 Q. You didn't have it in '97?

17 A. No.

18 Q. Did he talk about - the next
 19 paragraph starts "Second, and most
 20 significantly."

21 A. Yes.

22 Q. Did he - and we don't need to read
 23 it.

24 A. Okay.

37

Rayl

1 Q. What else did he say about that
 2 topic, the need to foster partnership, critical
 3 incidents causing harm, and the ability to work
 4 as a team, et cetera, what did you and he
 5 discuss?

6 A. He expressed concern over the
 7 exchange with Theresa.

8 Q. Those are the E-mails we -

9 A. Yes, and some of the issues on the
 10 Call Center.

11 However, earlier in 1996 Mr. St.
 12 John from the Call Center had basically spoken to
 13 Rich to ask that I be refrained from even
 14 supplying information about the Call Center when
 15 I attempted to draft a service level agreement.

16 I think those notes were turned
 17 over. Also his notes on that subject were turned
 18 over to us in the document production.

19 Q. So is that something you knew at
 20 the time?

21 A. I knew, I was told by Mrs. Gardner
 22 that I was supposed to refrain from being
 23 involved with the Call Center, when that was a
 24 little difficult since that is what my

38

Rayl
 organization did.

The Call Center in 1997 under the
 leadership of Ms. Hemenway, and to some extent
 some of the people in the office, namely Theresa
 Homsby, did not really understand the
 organizational considerations that were taking
 place.

Q. Is this the conversation you and

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10 Mr. Anderson were having on January 14th?
 11 A. I'm sure that I mentioned some of
 12 those things.
 13 Q. Well, what I'm really interested in
 14 is what you remember saying to Mr. Anderson and
 15 what you remember him saying to you on this
 16 second point here.

17 We will cover background later if
 18 you want to.

19 A. I told him that I believed he was
 20 reacting to one specific situation, and that his
 21 absence during the course of the year and his
 22 direction, and basically the way he left the
 23 organization, made it impossible to effectively
 24 deal with the Call Center, because the Call
 25 Center didn't see anybody in Tulsa on the

39

1 Rayl
 2 individual business side as having responsibility
 3 to deal with them.

4 And the absence of the officer
 5 position –

6 Q. And what did Mr. Anderson say in
 7 response to that?
 8 A. I'm not sure. I don't remember.
 9 Q. What else do you recall he and you
 10 discussing at the time of your performance
 11 review?

12 A. I'm sure I discussed that the Lotus
 13 notes development that we had done that we had
 14 given a presentation to Mr. Benmoshe, which
 15 commanded a lot of attention – and in fact
 16 resulted in the employee working for me being
 17 offered and receiving a very, very substantial
 18 promotion and pay increase to come to New York –

19 Q. Who was that?
 20 A. – and to continue the work.

21 Charles Skipper.
 22 And the impact that had on the
 23 organization, the fact that we had been charged
 24 with trying to continue that development work,
 25 and the fact that we did and were continuing that

40

1 Rayl
 2 development work, all of that would never have
 3 happened had I not been the individual in that
 4 position.

5 Q. And you felt that contribution was
 6 overlooked in the review?

7 A. That contribution as well as what
 8 we did procedurally in terms of the procedural
 9 development that had to be handled for the Call
 10 Center, to move the annuity and group annuity
 11 work into the Call Center.

12 There was any number of things that
 13 he overlooked. He only focused on what few
 14 negatives he could find.

15 Q. What else do you recall discussing
 16 with Mr. Anderson at your meeting?

17 A. Other than the performance
 18 appraisal, nothing.

19 Q. By "performance appraisal," you
 20 mean the rating at the end?

21 A. Yes.

22 Q. What do you recall discussing about
 23 the generally effective rating?

24 A. That I felt that it was inaccurate.

25 Q. You then wrote Mr. Anderson, I

41

1 Rayl
 2 assume overnight or the next day, this memo
 3 that's dated – marked Deposition Exhibit 56 and
 4 dated January 15, 1998?

5 A. Yes.

CONFIDENTIAL

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6 Q. And just a couple of points I want
 7 to ask you about this memo.
 8 A. Sure.
 9 Q. The second paragraph of the first
 10 page starts "As I stated to you, you talked about
 11 the particular exchange of communications with
 12 Ms. Hornsby."
 13 Those are the E-mails we talked
 14 about, right?
 15 A. Yes.
 16 Q. And then under "Call Center
 17 communications issues, lack of officer position,"
 18 first paragraph, you're referring to you had a
 19 piece of the organization involving support for
 20 the Call Center and Jim Judd had to manage all
 21 the administrative operations, but neither of you
 22 had the authority to address such as the officer
 23 position would have?
 24 A. Correct. And particularly since
 25 Mr. St. John had made it a point that he didn't

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1 Rayl
 2 want the Call Center to deal with me.
 3 Q. Now you talk about Kathy Schoos in
 4 the second paragraph?
 5 A. Yes.
 6 Q. First paragraph you're talking
 7 about you and Mr. Judd and your respective
 8 responsibilities?
 9 A. Yes.
 10 Q. Sort of a power sharing
 11 relationship here.
 12 In the next paragraph you're
 13 talking about Kathy Schoos?
 14 A. Yes.
 15 Q. Now what was her role in this
 16 process? She was in Warwick, correct?
 17 A. Right. She was the officer, and as
 18 issues arose with the Call Center, in general
 19 terms let's say Call Center issues that were
 20 universal or that -- well, that crossed both
 21 Tulsa and Warwick, Kathy Schoos was the person
 22 they looked to deal with those.
 23 Issues or Call Center issues
 24 between individual business and the Tulsa Call
 25 Center, there was no nobody to deal with those

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1 Rayl
 2 issues.
 3 Q. Okay. And Mr. Anderson was
 4 actually in New York, correct?
 5 A. Yes.
 6 Q. Was he Ms. Schoos' boss as well?
 7 A. Yes.
 8 Q. How often did he come out to Tulsa?
 9 A. I would guess once a quarter or
 10 thereabouts.
 11 Q. When he would come out, would he
 12 spend a day or two or stay for longer than that?
 13 A. No. He would typically spend about
 14 a day.
 15 Q. Now did you and Mr. Anderson ever
 16 talk about your lawsuit or charge of
 17 discrimination?
 18 A. No.
 19 Q. He never raised it with you in any
 20 way?
 21 A. No.
 22 Q. Did you talk about your lawsuit or
 23 your charge of discrimination with anyone else at
 24 MetLife?
 25 A. Not that's currently an employee.

44

1 Rayl

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2 I have spoken to -- Mr. Lyons knows about it.
 3 Q. Who is Mr. Lyons; remind me.
 4 A. He is a former director, retired.
 5 Q. He's the only person you've talked
 6 to about it?
 7 A. Ms. Condello is aware of it.
 8 Q. And she's aware of it because?
 9 A. I told her.
 10 Q. Now why is it that you believe that
 11 this performance review, the performance rating,
 12 was done in retaliation or because you filed your
 13 lawsuit or the age claim with the EEOC?
 14 A. I found the circumstances to be a
 15 little coincidental that throughout the course of
 16 the year Mr. Anderson never made a single comment
 17 or reference to performance issues.
 18 When we received notification that
 19 he was coming to Tulsa, I was given no indication
 20 whatsoever that he had any intent of discussing
 21 my performance.
 22 Had I known then, I would have been
 23 better prepared to have had a meaningful
 24 discussion with him, and one in which I would
 25 have assumed I would have been able to provide

CONFIDENTIAL

1 45
 2 Rayl
 3 some input; but the fact that he came out wham,
 4 bam.

5 Q. And what's that got do with your
 6 lawsuit or your charge?
 7 A. I am sure he's aware of it.
 8 Q. How do you know he's aware of it?
 9 A. I don't know he's aware of it for
 10 sure.
 11 Q. But let's assume he is.
 12 What is it that makes you think
 13 your charge or the lawsuit influenced what kind
 14 of review he gave you?
 15 A. Because to write a review that
 16 encompasses nothing positive and only focuses on
 17 a couple of negative situations and one lousy
 18 communication that upset somebody, is hardly
 19 grounds to sit there and give me no credit for
 20 carrying the responsibility we did out there in
 21 terms of trying to manage an operation that he
 22 left in the state that he did, without appointing
 23 an officer, or any recognition of those positive
 24 things that were done; to only come out, tell me
 25 the negative, "I am reducing your rating," and
 then get up and leave, seemed to me it was an

1 46
 2 Rayl
 3 intentional act.
 4 Q. Have you ever gotten a review from
 5 Mr. Anderson before?
 6 A. No.
 7 Q. Do you know how he normally handles
 8 reviews?
 9 A. No, I don't.
 10 Q. Do you know how he handled Mr.
 11 Judd's review?
 12 A. Same way I believe.
 13 Q. Did Mr. Judd file a charge of
 14 discrimination, to your knowledge?
 15 A. Not to my knowledge.
 16 Q. When was your lawsuit filed?
 17 A. March of '9 ~ March or April of
 18 '96.
 19 Q. Spring of '96?
 20 MR. RAYL: Yes, that's fair.
 21 Q. About ten or eleven months before
 22 your review?
 23 A. Yes.
 24 Q. And your charge of discrimination

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24 was filed about the same time, shortly thereafter
 25 I think?

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Rayl

2 MR. RAYL: It was filed before
 3 that.
 4 A. I think I filed with the EEOC in
 5 January of '97.

MR. RAYL: '96.

A. '96, yes.

8 Q. In the two-year period while your
 9 EEOC charge was filed or pending, or between the
 10 time you filed it more precisely in January of
 11 '98, you and Mr. Anderson had no conversations
 12 about your charge or your lawsuit, correct?

A. No.

14 Q. And other than through a retired
 15 director's name I have already forgotten, you
 16 didn't have any other conversations with anyone
 17 at MetLife other than Ms. Condello, who you since
 18 told about your charge or your lawsuit; is that
 19 correct?

A. Not to my knowledge, no.

MR. POOR: That's all I have.

MR. RAYL: Great.

23 THE VIDEOGRAPHER: The time is now
 24 4:56 p.m., April 13, 1998, and this
 25 completes the videotaped deposition of

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Rayl

James L. Rayl.

(Time noted: 5:00 p.m.)

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JAMES L. RAYL

6 Subscribed and sworn to before me
 7 this _____ day of _____ 1998.
 8 _____

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CERTIFICATE

STATE OF NEW YORK)

) ss..

COUNTY OF NEW YORK)

6 I, LINDA SALZMAN, a Notary Public
 7 within and for the State of New York, do
 8 hereby certify:

9 That JAMES L. RAYL, the witness
 10 whose deposition is hereinbefore set forth,
 11 was duly sworn by me and that such
 12 deposition is a true record of the testimony
 13 given by such witness.

14 I further certify that I am not
 15 related to any of the parties to this action
 16 by blood or marriage; and that I am in no
 17 way interested in the outcome of this

18 matter.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this ____ day of _____. 1998.

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LINDA SALZMAN

CONFIDENTIAL

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